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Fifth District

November 19, 2004

To: Supervisor Don Knabe, Chairman
Supervisor Gloria Molina
Supervisor Yvonne B. Burke
Supervisor Zev Yaroslavsky
Supervisor Michael D. Antonovich

From: David E. Janssen
Chief Administrative Officer

SEPTEMBER 28, 2004, BOARD AGENDA ITEM #18 AND ITEM #22: RESPONSES REGARDING THE RECOMMENDATIONS CONTAINED IN THE COUNTY OF LOS ANGELES CITIZEN'S ECONOMY AND EFFICIENCY COMMISSION REPORT ENTITLED: *ADDRESSING WORKERS' COMPENSATION FRAUD IN LOS ANGELES COUNTY, SEPTEMBER 2004*

On September 28, 2004, in response to a motion by Supervisor Don Knabe, Agenda Item 18, and a motion by supervisor Michael D. Antonovich, Agenda Item 22, your Board directed the Chief Administrative Office (CAO) to provide a report regarding the recommendations contained in the September 2004, County of Los Angeles Citizens' Economy and Efficiency Commission report. Attached is the CAO's response to the report's recommendations. Attachment A is the Executive Summary and Attachment B is Recommendations and Responses.

The CAO's response has been coordinated with the Auditor-Controller, the Office of County Counsel, and the Department of Human Resources.

If you have any questions regarding the CAO's response, please call me or Rocky Armfield of my staff at (213) 351-5346.

DEJ:RAA
AR:mtm

Attachments

c: Auditor-Controller
County Counsel
Director of Personnel

Executive Summary

The report of the County of Los Angeles Citizens' Economy and Efficiency Commission (Commission) entitled *Addressing Workers' Compensation Fraud in Los Angeles County, September 2004,* fairly indicates all participants in the State of California workers' compensation system must fully discharge their responsibilities as County of Los Angeles (County) managers, supervisors, employees, medical providers, contractors and legal representatives. For all system participants, the constant defense against workers' compensation fraud is but one of the many, diverse components of sound workers' compensation management. While the Commission's report is entitled *Addressing Workers' Compensation Fraud in Los Angeles County, September 2004,* it is understandable that the Commission's document does not limit itself to fraud issues.

The State of California (California) workers' compensation system has not performed well in anyone's memory. Unfortunately, the 1994 legislated "reforms" greatly exaggerated the system's problems by creating the "treating physician's presumption of correctness" and an environment in which County workers' compensation claims remain open for as long as thirty years. The prolonged time which claims are open has greatly increased the number of open County claims. For example, from fiscal year (FY) 1998 to FY 2000 the number of open County claims increased 25%. The treating physician's presumption of correctness increased the County's medical expense, negatively impacted the County's indemnity expense and, in the opinion of many, increased the stress on an already abused California system.

The County's workers' compensation expense is not only negatively influenced by failed past reforms, but by the spiraling increase in workers' compensation medical treatment. Between FY 1996 and FY 2002 the County workers' compensation medical expense increased by $61.2 million; from $54.5 million to $115.7 million. A California Commission on Health and Safety and Workers' Compensation (CHSWC) report stated that California workers' compensation medical costs are now 50% to 100% higher than in employer provided non-occupational healthcare programs.

Additional and continuing upward pressure on County's workers' compensation expense is being exerted by AB 749 enacted in 2002. AB 749 will continue to increase many workers' compensation expenses through 2006; for example: benefit minimums were increased in 2003 and 2004 and are scheduled to be increased again in 2006; and aggregate death and life pension benefits will increase in 2006. Once fully enacted, AB 749 will increase the County's workers' compensation expense by $50.0 million each fiscal year.

In 2003 and 2004, California legislators passed AB 227 (Vargas), SB 228 (Alarcon), and SB 899 (Poochigian) in an attempt to reform California's "broken" workers' compensation system. AB 227 repealed workers' compensation provisions relating to vocational rehabilitation. SB 228 established utilization guidelines, reduced physician

reimbursement for a number of services, applied a fee schedule for outpatient surgery facilities, and created a new pharmaceutical fee schedule. SB 899 represents far reaching reform that promotes the prudent use of medical care and improves accountability and administration. The Chief Administrative Office (CAO) staff was actively engaged in 2003 and 2004 workers' compensation reforms and continues to draft regulatory language in support of the reforms.

One of SB 899's most significant impacts will be to finally enable the logical progression from treatment to disability assessment to return-to-work. Such logical progression was difficult in the past. The immediate payment of medical treatment assures that necessary care will not be delayed until disability is determined under American Medical Association (AMA) guidelines. The AMA guidelines will facilitate the analysis of an injured worker's capacity to perform work once the worker's medical condition is determined to be permanent and stationary.

The 2004 permanent disability analysis and rating reform also creates a financial incentive for departments to offer meaningful return to work, or suffer paying more money due to failing to return the worker. Offering such injured workers return-to-work reduces disability payments to a permanently disabled employee.

The CAO's June 2003 study, *Review of the County of Los Angeles Workers' Compensation Program,* discussed problems with the County's workers' compensation system, problems that can not be totally explained by employees' ability to select treating physicians with a presumption of correctness. Many of the problems identified by the CAO possess the potential to be addressed through a Medical Provider Network (MPN), now allowed under the 2004 reforms and which CAO staff is presently creating. MPNs allow access to quality and appropriate medical care, and enable the County to increase control of workers' compensation physicians. Increased County control of physicians is a critical means to reduce excessive medical costs and unnecessary medical treatment, as well as controlling the quality of care and access to standards and guidelines. Effective January 1, 2005, the CAO plans to establish its MPN through each of the County's three workers' compensation managed care TPAs. January 1, 2005, is the earliest date MPNs will be authorized in California.

Recent Trends in County Workers' Compensation

As stated in the CAO's 2003 review of the County's workers' compensation program, the County's primary goal is to limit the growth of workers' compensation claims to an annual amount less than the percentage of growth in the County's employee population. **The County has successfully attained that goal during the past two fiscal years.** To attain this goal, the CAO's three objectives are:

1. Drive down claim frequency
2. Hold down claim expense
3. Affect legislative reform

Drive down claim frequency: The CAO is expanding its loss control and prevention team which is responsible for:

- developing workers' compensation loss control and prevention standards
- analyzing and reporting each department's exposure and losses
- in collaboration with department Risk Management Coordinators, Safety staff and Return-to-Work Coordinators conducting regularly scheduled loss control and prevention claim reviews

Hold down claim expense: The work of County staff and the impact of the FY 2003 and FY 2004 reforms have enabled the County to **reduce the County's actual FY 2003-2004 workers' compensation expense** to $324.0 million from the budgeted $352.0 million. Additionally:

- The CAO anticipates the County will be able to **reduce its FY 2004-2005 workers' compensation budget** by at least an additional $30.5 million to $384.0 million from $414.5 million.

- During the FY 1996 through FY 2003 period the frequency of County claims per $1.0 billion of payroll increased at a 6.2% annual rate; however, from FY 2003 to FY 2004, the annual increase was only 0.04%.

- During the FY 1996 through FY 2003 period the average severity of County claims increased at a 9.9% annual rate; however, from FY 2003 to FY 2004 the annual increase was only 0.03%.

- For the FY 2002 through FY 2004 period **new County claims have decreased** from 12,370 to 11,490, or at a rate of <3.6%> a year.

- Annually, the County's workers' compensation actuary calculates the County's total outstanding workers' compensation losses (all fiscal years combined) as well as annual outstanding losses for specific future fiscal years. Comparing the County's 2003 and 2004 actuarial studies illustrates the progress made in the County's workers' compensation program.

County of Los Angeles Workers' Compensation Comparing Two Outstanding Loss Projections For June 30, 2004 (1)		
Loss Projection Calculated as of June 2003 (2)	**Loss Projection Calculated as of June 2004 (3)**	**Improvement**
$2.7 billion	$2.3 billion	$400.0 milliion

(1) All fiscal years combined as of June 30, 2004
(2) From actuary
(3) From June 30, 2004, actuarial study

County of Los Angeles Workers' Compensation Comparing Two Ultimate Loss Projections For FY 2004-2005 (1)		
Loss Projection Calculated as of June 2003 (2)	**Loss Projection Calculated as of June 2004 (3)**	**Improvement**
$675.9 million (4)	$410.3 million (4)	$265.6 million

(1) For only FY 2004-2005. To be paid out over the next 30 years
(2) From June 30, 2003, actuarial study
(3) From June 30, 2004, actuarial study
(4) Includes salary continuation

Affect legislative reform: CAO staff continues its effort to affect meaningful legislative reform. While reforms were passed in 2003 and 2004, the regulations to implement the regulatory reforms are currently being written. CAO staff is very actively involved in drafting proposed changes to regulations necessitated by the reforms.

County Workers' Compensation Fraud

The County's actuary states the National Council on Compensation Insurance (NCCI) indicated that between 1% to 2% of all workers' compensation claims filed in the United States are fraudulent. The CAO also estimates that workers' compensation fraud may represent 1.0% to 2.0% of the County's annual workers' compensation expense, but less than 1.0% of the County's new claims.

Based upon the $325.0 million the County incurred for its FY 2004 workers' compensation, expense fraud may have cost the County $3.3 million in FY 2004. The CAO estimates between 50 and 75 fraudulent claims may be filed each year. These estimates are based upon the review of the CAO Workers' Compensation Section's workflow the past three years.

During FY 2004, CAO staff investigated 1,800 cases for workers' compensation fraud and abuse, of which 18, 1.0%, were referred to the County District Attorney (DA). In FY 2003, CAO staff reviewed 1,844 cases, of which 31, 1.7%, were referred to the DA.

Effect of the Labor Code Section 4850 (Safety Employees) and County's Salary Continuation

The California Labor Code Section 4850 enables safety employees to be paid 100% of salary tax free for one year prior to retirement, and increases surviving spousal benefits to 100%. The County's actuary, as of June 30, 2004, calculated the estimated outstanding liability for future Labor Code Section 4850 payments as $238.5 million. One analysis revealed approximately 70% of fire/safety staff retiring in a recent year received at least nine months of Labor Code Section 4850 payments prior to retiring. The CAO staff estimates that reducing Labor Code Section 4850 expense by one dollar would generate an additional two dollar reduction in workers' compensation expense.

The County's policy is to continue employees' compensation at 100% during the first year of injury. The County's actuary calculates the County's estimated outstanding liability for salary continuation has increased to $17.2 million.

At some future point, to further control expenses, the County should review both Labor Code Section 4850 and the County's salary contribution plan. While attempting to be supportive, both Labor Code Section 4850 and salary continuation are disincentives to the County's return-to-work initiative.

Economy and Efficiency Commission's Report

The Commission's report lists 46 recommendations of which 36 (78.3%) were implemented, or in the process of being implemented, by County staff prior to the report.

The CAO partially concurs with two new Commission recommendations which will be implemented to the extent possible; Recommendations 8 and 25.

The CAO does not concur with Recommendations 12 and 46.

Six Commission recommendations require further analysis to obtain CAO concurrence; Recommendations 9, 23, 27, 30, 31, and 33. Analysis on these recommendations will be completed during 2005.

The CAO appreciates the Citizens' Economy and Efficiency Commission's interest in the County's workers' compensation process.

RESPONSES TO SEPTEMBER 2004 CITIZENS' ECONOMY AND EFFICIENCY COMMISSION REPORT

COUNTY OF LOS ANGELES – CHIEF ADMINISTRATIVE OFFICE

Recommendation 1: *Direct that the Department of Human Resources review the County's hiring practices to ensure that all possible steps have been taken, including possible testing for illegal drugs and alcohol, to identify those applicants that may be predisposed to engage in unsafe work practices.*

RESPONSE 1

The CAO concurs with this recommendation which was partially implemented prior to the Commission's report.

All hiring assessments must have a job nexus. Countywide, various assessments are currently in place, such as a background check program that investigates sensitive positions and precludes certain convictions for certain classes. Also, within the promotional process, an "Appraisal of Promotability" must be included that requires assessment of character.

Arguably, applicants may be predisposed to engage in unsafe work practices due to poor judgment or cognitive impairment. The latter can be due to multiple causes which include use of prescription medication, over-the-counter medications, or illegal substances, and a wide range of medical conditions.

A job-related pre-placement medical examination is provided for County positions that includes psychological testing for safety or sensitive positions in order to ensure that the applicant's personality and characterological traits are suitable to the position's duties and functions. Additionally, two existing Countywide programs provide drug and/or alcohol testing: one for individuals carrying commercial driver's licenses and operating certain kinds of large vehicles; and, a second program that covers safety sensitive positions.

By October 1, 2005, the CAO will evaluate Countywide pre-placement medical screening programs and propose new protocols, procedures and approaches to improve examinations' effectiveness in assessing applicant fitness for duty, decrease examination costs, and ensure compliance with applicable regulations.

By October 1, 2005, the CAO will also evaluate Countywide employee and pre-placement drug/alcohol testing programs and propose program modifications to improve effectiveness in identifying substance abuse/misuse and preventing accidents, injuries

and associated losses. CAO staff will investigate current legal issues and case law associated with employee drug/alcohol testing; survey other public employers for current employee drug/alcohol testing policy, practices, and results; identify MOU implications and steps necessary in order to pursue any modifications to Countywide programs; and estimate cost(s) of any recommended modifications.

Recommendation 2: *Direct that the Department of Human Resources, in coordination with the County's Risk Manager, train all employees on the proper use and application of workers' compensation benefits, the prevention and detection of fraud and abuse within the workers' compensation system, and the impact of fraud on the County and each County employee.*

RESPONSE 2

The CAO concurs with this recommendation. This recommendation was partially implemented prior to the Commission's report, but requires additional effort.

The CAO trains departmental Return-to-Work Coordinators and advises departmental Personnel Officers of their responsibility to notify all new County employees of employee rights and obligations under California workers' compensation law. This notification describes the penalties associated with the commission of workers' compensation fraud. County departments post notices advising employees of their rights and responsibilities when a work-related injury occurs. These notices contain warning language with respect to the commission of workers' compensation fraud.

The Department of Human Resources (DHR) New Employee Orientation Program currently includes a 30-minute module on Employee Health and Safety. The CAO is working with DHR to ensure the new employee orientation program includes basic information concerning employee's rights and responsibilities when injured on the job and prevention of workers' compensation fraud.

The CAO and DHR will also develop a training program for all employees emphasizing safety, return-to-work, the proper use and application of worker's compensation benefits, the prevention and detection of fraud and abuse within the workers' compensation system, and the impact of fraud on the County and its employees. DHR will meet with CAO subject matter experts to define the training needs, appropriate curricula, training delivery methods and evaluation procedures.

Recommendation 3: *Direct that the Department of Human Resources, in coordination with the County's Risk Manager expand training of managers and supervisors on workers' compensation issues so that they can help identify and solve problems and understand how injuries decrease productivity, add to workers' compensation costs, and impact programs.*

RESPONSE 3

The CAO concurs with this recommendation. This recommendation was partially implemented prior to the Commission's report, but requires additional effort.

In 2003, the Los Angeles County Board of Supervisors directed each department to appoint a Risk Management Coordinator. The Risk Management Coordinators attend quarterly meetings that emphasize liability, workers' compensation, and safety issues. The department Risk Management Coordinators are becoming the focal point in coordinating quarterly department workers' compensation claim review meetings. During these workers' compensation claim reviews risk management, return-to-work, and workers' compensation claim problems are identified, analyzed, and mitigated with an emphasis on improving claim outcomes.

The CAO conducts quarterly meetings of, and training for, department Return-To-Work Coordinators. Additionally, the CAO provides data and training to department managers and supervisors with respect to workers' compensation costs, safety, return-to-work, and workers' compensation claims administration.

The CAO and DHR will develop a training program for managers and supervisors on workers' compensation issues to assist managers and supervisors to identify and solve problems and understand how injuries decrease productivity. DHR will meet with CAO subject matter experts to define the training needs, appropriate curricula, training delivery methods and evaluation procedures.

Recommendation 4: *Direct the County's Risk Manager, in coordination with the Public Affairs Office, internally to publicize the County's anti-fraud message, highlighting anti-fraud actions and convictions, using such methods as a regular segment in the County News, a special program on the County TV Channel, and other appropriate communication vehicles.*

RESPONSE 4

The CAO partially concurs with this recommendation. Most of this recommendation was previously implemented.

A variety of options are being considered to expand publication of the County's anti-fraud effort including posting on the intranet, publishing in the *County Digest*, mass e-mails to employees and distribution through department Personnel Officers. The use of public service announcements before or after the broadcast of the Board of Supervisors meeting will also be considered.

Recommendation 5: *Direct the Chief Administrative Officer to develop and implement a countywide policy that establishes when and how information on fraud related material is to be released to the media.*

RESPONSE 5

The CAO possesses an existing approach to such releases, but believes the policy can be more formalized. A more formalized policy will be developed and implemented.

Recommendation 6: *Direct the County's Risk Manager to develop and implement measures to ensure that employees are informed both of their rights and responsibilities at the time of their injury and an explanation of the criminal, civil and administrative penalties for fraudulent or abusive claims.*

RESPONSE 6

This recommendation was implemented prior to the Commission's report.

The *County of Los Angeles Early Return-to-Work Procedure Manual* provides guidance to supervisors and injured workers with respect to an employee's rights and obligations under the workers' compensation system. In addition, the Employee Claim for Workers' Compensation form (DWC-1), notice of potential eligibility language, and the *Written Notice to Injured Employees* pamphlet explains the penalties associated workers' compensation fraud.

Recommendation 7: *Direct the Public Affairs Office to expand how it displays and publicizes the County's Fraud Hotline number, emphasizing the need to report the fraud and abuse of the workers' compensation system.*

RESPONSE 7

The CAO concurs with this recommendation which was partially implemented prior to the Commission's report.

The CAO Public Affairs Office currently publicizes the County Fraud Hotline number in the *Citizens Guide to County Services* under the heading of "EMPLOYEE FRAUD HOTLINE." The Citizens Guide is being updated in October 2004, to include additional language on workers' compensation fraud and a new heading titled "WORKERS' COMPENSATION FRAUD."

Recommendation 8: *Direct the Public Affairs Office to expand how it displays and publicizes workers' compensation fraud and abuse posters.*

RESPONSE 8

This recommendation can not be fully implemented.

The CAO Public Affairs Office does not display or publicize workers' compensation fraud and abuse posters. However, the CAO Public Affairs Office is considering developing a regular notice explaining the procedure to obtain workers' compensation fraud and abuse posters.

Recommendation 9: *Direct the Auditor-Controller, in coordination with the County's Risk Manager, on a quarterly basis, distribute workers' compensation fraud and abuse information with the payroll.*

RESPONSE 9

This recommendation requires further analysis that will be completed in 2005.

The CAO concurs to the extent this recommendation is economically cost effective. The cost and expense of including workers' compensation fraud and abuse information with payroll checks will be evaluated with the assistance of Auditor-Controller. Alternative methods of information distribution will also be evaluated.

Recommendation 10: *Direct the County Risk Manager to develop and present periodically on-site briefings with employees to discuss workers' compensation policies and procedures, emphasizing the fundamentals of the workers' compensation program, what to do when an injury occurs, and the County's policy on fraud and abuse and return to work.*

RESPONSE 10

The CAO partially concurs with this recommendation which is currently implemented to some degree by County departments.

The CAO staff currently offers quarterly seminars to all departments' Return-to-Work Coordinators. In addition, on an "as requested basis", CAO provides on-site training to supervisors and managers. The purpose of the CAO's training is to:

- Explain policies and procedures for workers' compensation claim processing including the filing of an initial injury report;

- Define the role and responsibilities of the employee and supervisor;
- Establish the need for continued employee and supervisor communication regarding the employee's medical status;
- Identify temporary disability options;
- Explain work restrictions and guidelines for employee return-to work opportunities; and,
- Review short term disability and long term disability (STD/LTD) processing, to assure that if a workers' compensation claim is also involved, the employee and supervisor are aware of the benefits and notification requirements for other salary continuation programs.

Beginning in 2004, CAO Return-to-Work Program training seminars are being expanded to monthly occurrences to meet communication needs. Increasing the frequency of return-to-work meetings will improve the consistency of communication between the CAO and department personnel and employees; improve training content through timelier workers' compensation and CAO technical updates; and, discussion of process enhancements; and, facilitate the opportunity to emphasize fraud prevention activities. The CAO will continue to offer small group sessions to address the most complex workers' compensation cases and specific department concerns.

The CAO Disability Management staff consists of seven positions. The staff possesses responsibility for administering the County's STD and LTD Programs, medical management processes, and other collateral work assignments. This staffing level will be reviewed to determine its adequacy to support the development and administration of a comprehensive Countywide, best practices return-to-work program.

Recommendation 11: *Direct that the Department of Human Resources, in coordination with the County's Risk Manager, provide the County's workers' compensation policy to all new hires and require that they sign an acknowledgement that they have read and understood the policy. The policy should include, but not necessarily be limited to, the following:*

a. *Basic information on how the State's Workers' Compensation Program works.*

b. *The procedures to be followed when treating an injured employee including, if applicable, telling injured employees which health care providers have been selected for use and why they have been chosen.*

c. *A statement of how and to whom industrial injuries are to be reported.*

d. *An explanation of the employee's obligations and the rules to be followed while receiving workers' compensation benefits.*

e. *A policy on the return-to-work program together with a specific statement emphasizing the fact that work will be found for injured workers as soon as they can return to transitional duty.*

RESPONSE 11

The CAO concurs with this recommendation which was partially implemented prior to the Commission's report.

As previously stated, new employees are informed of their rights and obligations under workers' compensation laws in compliance with the requirements established by the California Division of Workers' Compensation. By July 1, 2005, the CAO, in collaboration with DHR, will enhance the information packet County departments provide to all new hires. In addition, the CAO will recommend County departments establish and maintain procedures ensuring new hires confirm receipt of such information.

The 2004 workers' compensation reforms mandated new processes and communication of information to employees. That information that must be communicated includes a listing of the County's pre-selected medical providers and the procedure for employees to access that care. The employee's obligations under the workers' compensation and return-to-work policies must also be explained.

In collaboration with the staff of other County departments, CAO staff are currently updating the Countywide return-to-work resource manual that communicates the County's workers' compensation processes, return-to-work processes and employee responsibilities. The manual is targeted for release by April 1, 2005, and will include an inter and intra department employee transfer process. Countywide cooperation between departments may be necessary to facilitate meaningful return-to-work offers for transitional and temporary assignments; and, subsequently, effective placement of employees with permanent work restrictions.

During 2005, the CAO will recommend that the Board of Supervisors require all departments' active participation in support of a Countywide mandated return-to-work program. Compliance with the program will result in timely employment offers to injured workers as soon as the employee is capable of assuming transitional duties. It is also envisioned that an offer of return-to work, congruent with employee's permanent medical condition, will be mandated unless exceptional circumstances exist.

Recommendation 12: *Direct the County Risk Manager to publish and distribute the Workers' Compensation Policies at least annually to ensure that all employees understand the program and how it works.*

RESPONSE 12

The CAO does not concur with this recommendation.

The CAO shares the Commission's belief that systematic and continued communication with injured workers will expedite their return to work and, in most cases, decrease claim expense. However, informing "all employees" in a "systematic manner on all aspects of workers' compensation" is not feasible. The California workers' compensation system is statutorily derived, complex, and often driven by case law. The development and annual publication of this information is cost prohibitive.

County employees are informed of their rights and obligations during new employee orientation, via posting notices, and when filing a workers' compensation claim. The annual publication and distribution of workers' compensation policies would be duplicative and organizationally ineffective.

CAO is developing a County website that includes workers' compensation policies and procedures. In addition, technical training regarding guidelines and procedures are available through the monthly return-to-work seminars and on an "as requested" basis.

Recommendation 13: *Direct that the Auditor-Controller place a statement above the endorsement on workers' compensation checks certifying that the recipient is entitled to the disability payment.*

RESPONSE 13

This recommendation was being implemented prior to the Commission's report, and is targeted for completion by January 1, 2005.

The passage of SBX4 2 (Speier) mandates self-insured employers to provide the following notice, in both English and Spanish, to a workers' compensation claimant on or with the claimant's check for temporary disability benefits:

WARNING: You are required to report to your employer or the insurance company any money that you earned for work during the time covered by this check, and before cashing this check. If you do not follow these rules, you may be in violation of the law and the penalty may be jail or prison, a fine, and loss of benefits.
ADVERTENCIA: Es necesario que usted le avise a su patron o a su compania de seguro todo dinero que usted ha ganado por trabajar, durante el tiempo cubierto por este cheque, y antes de cambiar este cheque. Si usted no sigue estos reglamentos, usted puede estar en

violacion de la ley y el castigo podria ser carcel o prision, una multa, y perdida de beneficios.

The CAO and Auditor-Controller will ensure compliance with SBX4 2.

Recommendation 14: *Direct the County's Risk Manager to develop and implement measures to ensure that the County maintains contact and a positive relationship with the injured worker, even in situations that may seem suspicious. These measures should include a requirement that employees receiving workers' compensation benefits should also be required to periodically sign forms, in person, acknowledging that they have been informed of the rules and that they are accurately representing the facts that entitle them to the benefits that they are receiving.*

RESPONSE 14

Much of this recommendation was implemented prior to the Commission's report.

The CAO supports this recommendation to the extent it is cost effective and medically appropriate.

An interactive process between the employee and the first line supervisor is mandated by the Americans with Disabilities Act and the Department of Fair Employment and Housing. CAO maintains an interactive model as part of its return-to-work process and standards. Presently, the County's mandated interactive communication relies solely upon the relationship between the employee and the first line supervisor with some oversight by department Return-to-Work Coordinators. Log records maintained by departments are encouraged; however, a Countywide monitoring system for compliance has not been established. The staffing ratio for each department's Return-to-Work Coordinator to the number of department open cases dramatically varies between departments. The County has not assessed department Return-to-Work Coordinator staffing ratio adequacy based upon workers' compensation claim levels.

A systematic approach to communicating with employees about their welfare, and medical condition status, while out on workers' compensation is vital to an effective return-to-work program. Department communication networks can be developed to support department return-to-work efforts and monitoring of the required interactive process. The system would improve communication throughout the employee's disability period. When fully developed, such systems will assist the supervisor and the injured worker by prompting interaction through notification and follow-up; providing medical access information for STD/LTD notification; and, requiring the employee to visit the worksite as medically appropriate during the disability period.

Recommendation 15: *Direct the Chief Administrative Officer to develop and implement a written safety program that achieves 100% safety awareness for employees and, using the approaches proposed in this program, conduct a countywide safety inspection designed to eliminate as many potential safety problems as possible.*

RESPONSE 15

The CAO concurs with this recommendation which was implemented prior to the Commission's report.

The CAO has developed model written safety programs for departments' implementation. These programs include employee training and educational opportunities designed to result in safety awareness for employees. The CAO works in consultation with departments, but the implementation of all programs is the responsibility of the individual department. Safety inspections are part of departments' Injury and Illness Prevention Programs. The CAO conducts a number of safety inspections, but departments are primarily responsible for completing inspections in all areas.

Recommendation 16: *Direct the Chief Administrative Officer to develop and implement countywide procedures that increase the attention being paid to any complaints or concerns over working conditions, including an employee safety hotline and insuring every effort to address these complaints in a timely manner.*

RESPONSE 16

The CAO concurs with this recommendation and was working with departments prior to the Commission's report. The CAO continues to work in conjunction with DHR to increase options for employees to address or report working condition issues. Options being considered include safety suggestion boxes, telephonic safety hotlines and the use of department safety committees.

Recommendation 17: *Articulate a policy addressing workers' compensation costs, including the deterrence, detection and prosecution of fraud and abuse within the program.*

RESPONSE 17

This recommendation was implemented prior to the Commission's report. Please see Executive Summary and Response 18.

Recommendation 18: *Consistent with the workers' compensation policy articulated by the Board, direct the County's Risk Manager to develop an anti-fraud strategy that addresses the fraud prevention needs of the County, develops program objectives that are specific, measurable, realistic, time sensitive and performance based, and ensures the effective utilization of risk management resources.*

RESPONSE 18

The CAO concurs with this recommendation which has been implemented prior to the Commission's report.

Currently, the primary goals of the County's Workers' Compensation Anti-Fraud Program are the aggressive pursuit of fraudulent workers' compensation claims and to establish a reputation as an organization that strives to eliminate all facets of workers' compensation fraud. In an effort to accomplish these goals, the program has fostered collaboration with organizations that play critical roles in actively combating fraud.

The County's Workers' Compensation Anti-Fraud Program results are measured by arrests, convictions, restitutions granted, and cost avoidance attributed the anti-fraud efforts. Program effectiveness is documented in Table 2, Table 3, and Table 4 of the Commission's report.

Recommendation 19: *Direct the Auditor-Controller, in coordination with the Chief Administrative Officer and affected departments, to create an annual report on workers' compensation costs that:*

a. *Analyzes each of the elements of workers' compensation and delineates the County's costs by department.*

b. *Identifies the amounts expended in workers' compensation as a percent of the salary/employee benefits costs for each department in order that comparisons of these percentages can be made to other similar local, county, and state departments.*

c. *Identifies the cost changes from year to year.*

RESPONSE 19

The CAO concurs with this recommendation which was in the process of discussion and possible implementation prior to the Commission's report.

The CAO currently generates a number of reports that analyze workers' compensation cost factors and trends. Also, Countywide and department frequency and severity reports are generated and distributed to departments upon demand. Access to the

County's workers' compensation computer system (GenComp) is now available to most County departments. The department reports analyze department workers' compensation claim data as a percentage of employee population and salary. Countywide and individual department workers' compensation payout results are trended by fiscal year. The CAO is creating an annual report on workers' compensation costs for FY 2004, and plans to do so for each fiscal year thereafter.

The Countywide dissemination of all department workers' compensation results is new to the County. CAO staff has been discussing implementing such reports with members of the County Guiding Coalition.

Recommendation 20: *Direct the Chief Administrative Officer to analyze recently adopted state workers' compensation reforms to determine how these reforms may impact the recommendations made in this report.*

RESPONSE 20

This recommendation was completed prior to the Commission's report.

The CAO was actively engaged in the 2003 and 2004 workers' compensation reforms and continues to draft regulatory language in support of the reforms.

Senate Bill 899 (Poochigian) was signed by Governor Schwarzenegger on April 19, 2004. The bill offers the opportunity for comprehensive workers' compensation reform. The provisions of SB 899 have been analyzed by CAO and County Counsel. Many of the provisions of SB 899 became effective on the date the bill was signed and other provisions become effective on specified future dates. SB 899 is being implemented by the County on a continuing basis as the bill's effective dates arrive and as the State adopts and publishes rules and regulations.

At this time, the CAO has not identified any significant impact the reforms will have on the recommendations contained in the Commission's report. CAO staff intend to monitor the workers' compensation program's enhancements on a continuing basis to ensure consistency and compliance with the provisions of SB 899.

Recommendation 21: *Direct the Chief Administrative Officer to establish a special Workers' Compensation Task Force to assist the County's Risk Manager in the development of a strategy to reduce workers' compensation costs.*

RESPONSE 21

The CAO concurs with this recommendation which was being implemented prior to the Commission's report.

Prior to the Commission's report, CAO staff began working closely with the County's Guiding Coalition Risk Management Action Team on methodologies to enhance the management of the County's liability claims and workers' compensation claims. Should the County's Guiding Coalition agree to support the following strategies and objectives, the last objective would not be attained until January 2006. Rather than a separate workers' compensation task force, the County Guiding Coalition is the logical group to assist the CAO.

The following workers' compensation strategy and objectives were presented to the County's Guiding Coalition on October 20, 2004:

County of Los Angeles Strategic Plan, Goal Number 4, Fiscal Responsibility:

Strategy: Address reducing the spiraling growth of workers' compensation claims and related expense by treating it as a response to a Countywide financial crisis.

Objective 1: By December 31, 2004, develop and implement medical provider network(s) to treat workers' compensation claimants.

Objective 2: By June 30, 2005, in collaboration with departments, develop and assist departments to implement an aggressive Countywide loss control and prevention program.

Objective 3: By September 30, 2005, engage executive management to articulate, publicize, and demonstrate a personal commitment to claims and loss control policies that reduce workers' compensation claims; and, the deterrence, detection, and prosecution of workers' compensation fraud and abuse.

Objective 4: By September 30, 2005, implement a Board of Supervisors mandated Return-to-Work Program and a structure for an intradepartmental and interdepartmental employee transfer programs.

Objective 5: By September 30, 2005, implement comprehensive workers' compensation claim reports that provide claim information and comparative intra and inter-departmental performance data.

Objective 6: By December 31, 2005, in collaboration with County Counsel, evaluate the cost/benefit of implementing a defense attorney (outside panel) hourly billing process.

Objective 7: By June 30, 2006, in collaboration with CAO Employee Relations and County Counsel, evaluate the cost/benefit of implementing a pilot workers' compensation Alternative Dispute Resolution Program.

Objective 8: By December 31, 2006, evaluate ability to improve departments' commitment to loss control and prevention and claim expense reduction by including a cost savings incentive component in the County's cost allocation model.

Objective 9: By January 3, 2006, evaluate Countywide applicant medical examination program and implement new protocols, techniques and procedures to improve examination effectiveness in assessing applicant fitness for duty and decreasing examination expense.

Objective 10: By January 3, 2006, evaluate Countywide current employee and pre-employment drug and alcohol testing programs and propose modifications to improve their effectiveness in identifying substance abuse/misuse and preventing workers' compensation claims.

Recommendation 22: *Direct the County's Risk Manager to review periodically the policy, along with its implementation, that requires departments, or in some cases the Chief Administrative Office, to make an offer of light or modified duty.*

RESPONSE 22

The CAO concurs with this recommendation that was being implemented prior to the Commission's report.

A Countywide transitional Return-to-Work program began in 1998. Because offers of light or modified duty were not mandated by the County, some departments are more aggressive than others offering transitional work to injured workers. During 2005, the CAO will recommend to the Board of Supervisors a policy that mandates transitional offers within all County departments. Additionally the CAO will enhance the department performance measures designed to measure return-to-work timeliness and successes by department. The CAO does not posses the authority to extend an offer of light or modified duty to an injured worker or to direct a County department to make such an offer either on a temporary or permanent disability status.

Performance metrics will to be expanded as part of a component to the mandated County Return-to-Work Program. The key components of return-to-work will be measured by department and compiled in a CAO annual report.

Recommendation 23: *Direct that the Department of Human Resources conduct a staffing review to consider the following:*

a. *Whether an increase in the staffing level of the Special Investigation Unit above the current 1 full-time employee and 1 part time employee would result in increased savings to the County.*

b. *Whether it would be beneficial from a cost standpoint to fund a County dedicated investigator(s) within the District Attorney's Office.*

c. *Whether it would be beneficial to join other self-insured employer's (e.g. MTA, LAUSD, the City of Los Angeles, etc) to co-fund dedicated investigators to investigate exclusively workers' compensation claims for the participating public agencies.*

RESPONSE 23

This recommendation, because of its fiscal impact, requires further study. The CAO will complete a staffing review (recommendation 23(a)) in 2005. If additional positions are recommended and authorized, DHR will provide classification expertise to allocate these positions.

Recommendations 23(b) and 23(c) require additional study for the following reasons:

Labor Code Section 62.5 and 62.6 require the California Department of Industrial Relations to levy a number of surcharges and assessments between insured employers and self-insured employers. In January of 2004, the County paid $711,603.57 for the FY 2004 California Department of Insurance Fraud Investigation Assessment. Funds derived from these assessments are expended for the investigation and prosecution of workers' compensation fraud and the willful failure to secure payment for workers' compensation benefits. Any additional funding should to be evaluated to limit duplication and ensure fiscal responsibility.

Recommendation 24: *Direct the County's Risk Manager to develop a database for workers' compensation claims that has as its objective the measurement of, among other things, the nature and extent of fraud and abuse in the workers' compensation system.*

RESPONSE 24

The CAO concurs with this recommendation which was being evaluated prior to the Commission's report, but the recommendation requires further analysis.

The CAO reviews available or emerging technologies to enhance the detection, investigation, and prosecution of workers' compensation fraud. Currently, the CAO is working with the Internal Services Department (ISD) to establish the functional requirements of a database system to enhance the identification of workers' compensation provider and medical billing fraud. ISD will provide cost estimates for the development and maintenance of this system. A major architectural component will be the system's ability to interface with a variety of source systems.

The CAO does not concur with the report's assertion that, "prior to the passage of SB 899, the fastest growing area of fraud and abuse in the County workers' compensation system was in the pre-designation of physicians." An employee's right to predesignate a physician continues under the California Labor Code. The CAO is unaware of a study that directly correlates physician predesignation with workers' compensation fraud or abuse.

Recommendation 25: *Direct the County's Risk Manager to develop uniform reporting requirements for organizations involved in workers' compensation anti-fraud activities that maximize the use of current reporting requirements in an effort to avoid duplication.*

RESPONSE 25

To the extent this recommendation is limited to County departments, the CAO concurs with this recommendation. The CAO will collaborate with the Auditor-Controller to avoid duplicative investigations. This effort will be enhanced by utilizing the Los Angeles County Fraud Tracking System, scheduled for release in March 2005.

Currently, uniform reporting requirements have been established by the California Department of Industrial Relations and California Department of Insurance. These requirements apply to all California workers' compensation stakeholders reporting workers' compensation fraud.

This recommendation will not be implemented as it relates to other "organizations involved in workers' compensation anti-fraud activities" because it exceeds the County and CAO's authority.

Recommendation 26: *Direct the Chief Administrative Officer to expand upon return to work strategies using the workers' compensation claims database, along with any other information that may be available.*

RESPONSE 26

This recommendation requires further review.

A collection of data from GenComp, County Wide Timekeeping and Personnel/Payroll System (CWTAPPS), and CAO Budget Operation's Management Branch data with county wide open item information, needs to be part of a comprehensive report that is readily available to the County's Return-to-Work Program. The initial filing of the workers' compensation claim triggers an interactive process with the employee and other stakeholders; however, there is no systematic effort to facilitate the ongoing communication of key components. Departments and supervisors need timely

information with regard to medical determination, work restrictions, or the availability of alternative positions for return-to-work offers. A method for the collection and timely dissemination of information may need to be developed over the next year to capture all of the critical components for successful return-to-work programs.

Recommendation 27: *Direct that the County's Risk Manager monitor program areas such as Continuation of Pay (COP) to develop trends involving potential increases or decreases in workers' compensation program costs.*

RESPONSE 27

This recommendation currently cannot be implemented and requires further study.

An employee's Continuation of Pay from payroll or other benefit programs, such as STD/LTD, LACERA disability, Family Medical Leave Act, vacation pay, part-pay sick leave, sick leave and administrative leave provisions, are part of CWTAPPS record keeping. The CWTAPPS data can be extracted on a "field or code" basis. However, presently, there is no ongoing system analysis for correlating employee use of salary continuation programs and any subsequent employee workers' compensation claims. Information from CWTAPPS has approximately a two week delay due to the payroll cycle. The benefit utilization data have not been collectively gathered or developed to facilitate their application for predictive modeling to determine future program costs, program eligibility coordination, or the cost of future liabilities.

Recommendation 28: *Direct that the County's Risk Manager utilize investigative management software to assist in the effective utilization of the Special Investigation Unit (SIU) resources.*

RESPONSE 28

The CAO concurs with this recommendation which was partially implemented prior to the Commission's report.

Please see Responses 24 and 25.

Recommendation 29: *Direct that the County's Risk Manager expand the analysis of the County's claims history.*

RESPONSE 29

The CAO implemented this recommendation prior to the Commission's report.

Please see Response 24.

Recommendation 30: *Direct the County Counsel to investigate whether the legal right to receive State data extends to the County's anti-fraud program. If not, direct the Chief Administrative Officer to express the desire of the Board to the County Advocates to pursue legislation that would enable the workers' compensation anti-fraud program to receive such data.*

RESPONSE 30

This recommendation requires further review.

The anti-fraud programs of self insureds, such as the County or insurance carriers, are not included in the California Unemployment Insurance Code or the California Insurance Code; and, therefore, are ineligible from receiving confidential payroll data from the California Employment Development Department (EDD) for the purpose of investigating workers' compensation claims. The County District Attorney (DA) and the California Department of Insurance (DOI) are eligible to request and receive such data for their pursuit of workers' compensation fraud investigation. When information developed by the County is provided to its DA and/or the DOI, the confidential data can be obtained and utilized by the DA or the DOI in their further development and prosecution of County fraud cases.

The CAO is reviewing the feasibility and advisability of this recommendation. Current California law, however, limits the release of confidential payroll information to the DA or the DOI. Current law may already strike a proper balance between the preservation of confidentiality and the ability to adequately investigate workers' compensation fraud.

Another limitation within current California law may be the administrative burden this recommendation may place on EDD if their data were provided to all employers and insurance carriers where the suspicion of fraud may possess little basis in fact. County DA or DOI screening may indeed be appropriate to prevent EDD from being inundated with requests possessing little or no merit.

Recommendation 31: *Direct that the County's Risk Manager review the current usage of predictive modeling with the objective of understanding its application to the identification of fraud and abuse and ascertain whether such an approach would make a cost effective contribution to its anti-fraud program.*

RESPONSE 31

The CAO concurs with this recommendation which was implemented prior to the Commission's report.

As advances occur in data mining techniques, those technologies are reviewed by the CAO to ascertain effectiveness in detecting workers' compensation fraud. However, no single predictive model or technology currently exists that can be considered "the answer" for detecting and deterring workers' compensation fraud.

Please see Response 24.

Recommendation 32: *Direct the Chief Administrative Officer to develop a process that will enable the County actively to participate in the creation of its workers' compensation physician networks and establish criteria for the selection of health care providers.*

The CAO began process of implementing this recommendation prior to the Commission's report.

The County has possessed a workers' compensation medical management program since the mid-90s. Through the County's medical management service contracts, medical services are provided at rates below the California workers' compensation fee schedule when the medical provider is part of the County Preferred Provider Organization (PPO). Pursuant to the 2004 workers' compensation reforms, employees can now pre-designate a physician or be assigned to participate in the County's Medical Panel Network (MPN). The CAO intends to establish a MPN available for injured County employees effective January 1, 2005. The efficiency and effectiveness of the physicians treating injured workers will be monitored as part of the current medical management service contract. Annual performance measures will be based upon best practice standards for the efficacy of medical treatment, timeliness of reports and employee customer satisfaction. The MPN will be part of the current PPO's provided under our management medical services contracts.

Recommendation 33: *Direct the Chief Administrative Officer to coordinate the group health program and the workers' compensation program.*

RESPONSE 33

This recommendation requires further analysis.

Since early 2004, the County has been discussing with representatives of the SEIU Safety Committee the feasibility of a pilot program that integrates work-related health care benefits for active employees and regular group health benefits. According to a recent Rand Corporation's Institute for Civil Justice publication, *Assessment of 24-hour Care Options for California,* the County faces two pivotal structural barriers to successful coordination of such programs:

1. The health plan offered to this represented group is a fully insured product, leaving little latitude in the County's ability to effectively manage claims processing. This does not allow the coordination of claims processing for a dual delivery system.

2. The work-related injuries or illnesses of the SEIU represented employees may not be significantly large enough to observe any measurable outcomes, even if the programs were to be combined.

Since the MPN arises from the existing workers' compensation PPOs, it will provide medical services at reduced rates for workers' compensation. The MPN appears to offer the most cost effective program for the Coalition and non-represented active employee health plans.

The County offers and pays for retiree health insurance as a retirement benefit for eligible employees. In addition to workers' compensation, the County, through LACERA, also provides fully paid medical care for retired safety employees on a medical disability. Preliminarily review indicates the potential exists to reduce overall County costs based upon integration of medical services for this employee population. Further exploration of the programs may determine the feasibility and extent of cost savings through the coordination of medical services. This is especially true with regard to capitated retiree health care plans (where a monthly premium is paid regardless of utilization or cause of injury), and the potential cost savings of the new workers' compensation MPN. Since these programs are administratively disconnected, data would be shared to prevent any erroneous billing and to provide the most cost effective delivery of medical services.

Recommendation 34: *Direct the County's Risk Manager to review periodically those measurable levels of achievement that would define a successful workers' compensation fraud program and measure overall system performance, particularly data on the management and operations of available investigative resources, i.e., reduction in new claims vs. dollars spent on the program.*

RESPONSE 34

To the extent this recommendation is limited to the County's workers' compensation anti-fraud effort, the CAO concurs with this recommendation. The recommendation was partially in place prior to the Commission's report.

The CAO measures the anti-fraud program's performance based upon:

- Number of suspected fraudulent claim referrals submitted to the County District Attorney or California Department of Insurance
- Number of documented referrals submitted to the County District Attorney

- Number of fraud arrests
- Number of fraud convictions
- Prison sentences
- Court ordered restitution resulting from anti-fraud efforts
- Future cost avoidance resulting from anti-fraud efforts

These measures are displayed on page 25 of the Commission's report. The CAO believes these criteria are measurable and relevant, and periodically review the metrics applied to measure program performance.

Recommendation 35: *Ensure that management devotes an appropriate level of attention to the issues of workers' compensation fraud and abuse by making compliance with the overall strategy and cost reduction objectives a part of the department heads performance review.*

RESPONSE 35

The CAO concurs with this recommendation which was being analyzed prior to the Commission's reports.

Contained in the CAO's *2003 Review of the County's Los Angeles Workers' Compensation System* was a recommendation, number 17, to "Challenge department managers and supervisors by including the management of workers' compensation and liability claims as a MAPP goal. By establishing goals toward reduction in the frequency and severity of claims, departments begin to manage their results." To assist in implementation of the CAO's recommendation, the CAO is working to obtain the County's Guiding Coalition's support of its recommendation.

Recommendation 36: *Direct that the County's Risk Manager periodically review procedures with the objective of ensuring claims are reported immediately to enable the County to reduce its workers' compensation costs.*

RESPONSE 36

This recommendation was implemented prior to the Commission's report.

County departments possess 24 hour, seven days a week access to toll free numbers for reporting industrial injuries/illnesses. This service, provided under the CAO's Medical and Disability Management and Cost Containment Services contracts, includes preparation of the Employer's Report of Occupational Injury/Illness form and electronic transmission to the appropriate County workers' compensation claims third party administrator.

Program results are measured by the number of calendar days required to open a claim once knowledge of an injury/illness exists. The following table compares results between calendar year 1999 and 2003:

PERFORMANCE MEASURE	CALENDAR YEAR 1999	CALENDAR YEAR 2003
Median # of days to open claim	7	5
% Of claims opened in 7 days or less	53%	69%
% Of claims opened in 30 days or less	89%	92%

Recommendation 37: *Direct that the County's Risk Manager periodically review procedures with the objective of ensuring timely follow up actions on cases.*

RESPONSE 37

This recommendation was implemented prior to the Commission's report.

CAO Quality Assurance Evaluators (QAEs or Claim Monitors) review all indemnity claims until accepted or denied at the following intervals:

- 45 days from the date of employer's knowledge of injury/illness
- 75 days from the date of employer's knowledge of injury/illness
- 90 days from the date of employer's knowledge of injury/illness

Additionally, QAEs assist departments in the review of complex or expensive workers' compensation claims, and attend regularly department scheduled claim review meetings.

Recommendation 38: *Direct that the County's Risk Manager to review periodically case files on all open/active claims, no matter how old, to ensure that they are being maintained.*

RESPONSE 38

This recommendation was implemented prior to the Commission's report.

The County workers' compensation claim third party administrators are required to provide workers' compensation claims administration services for all existing claims, as well as all new claims reported during the contract period. These services are to be provided in accordance with CAO requirements, industry claims adjusting standards, and in compliance with State requirements.

Recommendation 39: *Direct that the County's Risk Manager review procedures periodically to ensure that current medical evidence is continually received so the employee may be returned to duty as soon as possible.*

RESPONSE 39

This recommendation was implemented prior to the Commission's report. Please see Response 37 and 40.

Recommendation 40: *Direct the County's Risk Manager to ensure, through inspection and operational review, that Third Party Administrators have aggressive fraud units.*

RESPONSE 40

This recommendation was implemented prior to the Commission's report, but requires additional effort.

All third party workers' compensation claims administration services contracts require the TPAs to develop written policies and procedures relating to the identification, investigation, and prosecution of potentially fraudulent claims. This service is provided at no additional cost to the County.

By January 1, 2005, the CAO will establish new and enhanced training program for all TPA claims examiners administering County workers' compensation claims. This training will include the early identification and thorough investigation of potentially fraudulent workers' compensation claims. Beginning in 2005, the TPAs will submit to the CAO a semi-annual report to include the following:

- Identified potentially fraudulent claims
- Nature of fraudulent activity
- Detection method
- Investigation method
- Plan of action

Recommendation 41: *Direct the Chief Administrative Officer to pursue increased coordination among the investigative organizations of the County, the MTA, the City of Los Angeles, the District Attorney, the California Department of Insurance Fraud Bureau, and other appropriate agencies, possibly through the creation of a coordinating body, in order to maximize the effective use of scarce resources, to identify fraud detection methodologies and to seek mutual assistance.*

RESPONSE 41

The CAO concurs with this recommendation which was partially implemented prior to the Commission's report.

Beginning 2003 and continuing in 2004, CAO staff began a dialogue with the risk managers of the Mass Transit Authority, City of Los Angeles, and Los Angeles United School District to discuss mutual issues, problems, and opportunities. Initial meetings and discussions have proven beneficial and positive. Cooperation concerning the group purchase of workers' compensation services and the possible mutual ownership of an insuring organization has developed. As a group, the risk managers of these Los Angeles area public entities plan to meet again in 2005.

Recommendation 42: *Direct the County's Risk Manager to develop a countywide protocol for the investigation of workers' Compensation claims.*

RESPONSE 42

This recommendation was implemented prior to the Commission's report.

The CAO conducts regularly scheduled accident investigation training for departmental personnel. The training material utilized for these presentations serves as a protocol for the investigation of all accidents, including those resulting in workers' compensation claims.

Recommendation 43: *Direct County departments to investigate all accidents involving their employees using a Departmental Accident Review Team.*

RESPONSE 43

The CAO concurs with this recommendation and was in the process of developing department Accident Review Committee material prior to the Commission's report.

Sample agendas for departmental risk management meetings, including an item to review accidents, have been distributed to all County department Risk Management Coordinators. The CAO will develop a risk management bulletin to be distributed to all departments explaining the value of having all accidents reviewed by a departmental Accident Review Committee or Team.

Recommendation 44: *Direct the County's Risk Manager to develop a countywide protocol to ensure that there is early incident intervention for every accident.*

RESPONSE 44

This recommendation was in place prior to the Commission's report.

An existing protocol is contained within the current County Return-to-Work Manual and will also be included in the manual update previously discussed in this response.

Recommendation 45: *Direct that the appropriate claims personnel always interview both the claimant and physician.*

RESPONSE 45

This recommendation was implemented prior to the Commission's report.

The County's workers' compensation claim TPA procedures require their claims examiners to make "three-point contact" within 24 hours from the inception of the claim. Three-point contact is defined as contact with the employee, employer, and treating physician. With respect to the latter, the claims examiner normally communicates with the treating physician's office staff.

Recommendation 46: *Direct the County Counsel to review the ramifications of having employees who are leaving County employment sign a Workers' Compensation Release Form, and prepare such a form, if deemed appropriate.*

RESPONSE 46

The CAO does not concur with this recommendation.

County Counsel reviewed this recommendation and advises that Labor Code Section 5001 invalidates any release of liability unless approved by the California Workers' Compensation Appeals Board. Therefore, requiring employees leaving County employment to sign a release would not be legally binding.