



MEMORANDUM

TO: HONORABLE MAYOR &
CITY COUNCIL

FROM: Anil Comelo

SUBJECT: Vehicle Accident Review Program

DATE: January 8, 2015

City Administrator

Date

Approval

/s/ **Donna Hom**

1/8/15

INFORMATION

The purpose of this information memorandum is to follow-up to the City Council's request for information regarding the City's Vehicle Accident Review Program. Contained in this memorandum are 1) background data and recommendations for program enhancements; 2) policy changes that have the potential to enhance vehicle operation safety; and, 3) additional information regarding the program (provided in a question and answer format as an appendix).

Note that some of the enhancements and changes will require meet-and-confer negotiations with impacted labor unions before the City can implement. Depending upon the actions taken, program enhancement may also require additional resources for training, program evaluation and equipment. Staff will continue working with departments in developing the materials that will also be presented to the unions for discussion. Administrative Instructions that may need to be revised include:

- 528 - Employee Loss of Required California Driver's License*
- 576 - Commercial Driver License Drug and Alcohol Drug Program*
- 577 - City of Oakland Policy Regarding Alcohol and Controlled Substance Use*
- 587 - Vehicle Accident Procedures and Accident Review Process*
- 588 - City Vehicle Equipment Operator Permit and Training Program*
- 4405 - DMV Employer Pull Notice (EPN) Program*

<http://oaknetnews.oakland.local/departments/CityAdministrator/index.htm>

The *City of Oakland Driver/Operator Safety Manual* may also need to be revised.

Due to the volume of these documents, copies are not attached to this memorandum. Copies are available in the link listed above.

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Background

In the past four years (from 2010-2013, city employees that are authorized to operate vehicles for city business have been involved in 162 accidents on (see table below.) Of these accidents 76 (47%) were preventable accidents and 86 (53%) were not preventable on average per year. The National Safety Council defines a preventable accident as “one in which the driver failed to do everything that they reasonably could have done to avoid it”.

The annual average cost of the accidents is approximately \$1.72 million per year in the period examined. The amount as shown below includes costs related to General Liability which is paid out to non-city stakeholders of an accident; equipment damage, which includes costs related to the repair or replacement of city vehicles; and workers’ compensation costs, which include medical costs, loss of work time and other costs related to injuries suffered by city employees. This data does not take into consideration operational downtime and staff resources expended in response to the vehicle accidents.

ACCIDENT DATA 2010-2013

<u>Department</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>Sub Totals</u>		<u>Totals</u>	<u>Averages</u>		<u>Average</u>
					<u>Prev*</u>	<u>Non Prev</u>		<u>Prev</u>	<u>Non Prev</u>	
OPD	98	59	99	88	157	187	344	39	47	86
FIRE	28	23	29	41	70	51	121	18	13	31
PWA	33	29	46	34	63	79	142	16	20	36
ALL OTHERS	19	14	2	2	12	25	37	3	6	9
TOTALS	178	125	176	165	302	342	644	76	86	162
Averages								47%	53%	
Prev = Preventable										

VEHICLE LOSS DATA (2010-2013)

TYPE	<u>2013</u>	<u>2012</u>	<u>2011</u>	<u>2010</u>
Workers' Compensation	\$ 342,762.31	\$ 504,620.91	\$256,885.37	\$ 1,772,140.89
General Liability	201,170.70	503,625.83	753,010.22	196,019.51
Equipment Damage	410,405.87	231,026.94	299,573.64	416,100.01
TOTAL	\$ 954,338.88	\$ 1,239,273.68	\$1,309,469.23	\$2,384,260.41

Proposed Policy Changes/Program Enhancements

A. Employee Training and Skill Building

- Enhance live and in-vehicle training for employees who need to enhance driving skills. Ideally, employees who have been involved in more than 2 preventable accident(s) within three years.
- Require supervisors to perform annual driver skill assessments through in-vehicle observations (ride-along) of their authorized drivers.
- Utilize Driving Simulator program for specialized vehicle training and where skill enhancements are recommended based on supervisor’s “ride along” observations or Accident Review Committee findings. (NOTE: this recommendation may require budget allocations to upgrade existing simulator to accommodate a broader range of vehicle types. Currently the simulator is designed for operators of Fire emergency vehicles only.)
- A representative from OPD could be called upon to assist the Accident Review Committees for interpretation of accident reports and vehicle code violations. It is estimated that this will require about 25 hours of an OPD officer’s time at the meetings annually.
- The Accident Review Committee determines preventability of accident regardless of fault. This will result in findings where the employee could have taken reasonable steps to avoid an accident even though technically they were not at fault for the accident.

B. Post Accident Actions

- Post- accident drug testing for all employees (commercial and non-commercial) based on established testing criteria, regardless of fault and/or preventability.

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This will require a change in current City practice and meet-and-confer with the impacted unions.

The table below is an example of the testing criteria being considered.

Type of accident involved	Accident Preventable and/or Citation issued to the driver	Test must be performed
i. Human fatality	YES	YES
	NO	YES
ii. Bodily injury with immediate medical treatment away from the scene (i.e. Transported by ambulance.)	YES	YES
	NO	YES
iii. Disabling damage requiring tow away of either vehicle	YES	YES
	NO	YES

C. Employee & Management Accountability

- Employees are required to maintain valid driver’s licenses and maintain medical eligibility for held licenses.
- Employees with out of state driver’s license will be required to provide their out of state DMV records at their own expense on an annual basis.
- Impose discipline on drivers/operators involved in a preventable accident and/or vehicle related policy violation (such as citations for excess speed, confirmed instances of reckless driving, license suspensions/revocations, etc.)
- Impose discipline on *employees who witness* accident and/or vehicle related policy violation involving a City vehicle AND fail to report same.

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- Hold *supervisors/managers* accountable per the performance review for the training, education and observation of employees as it relates to the equipment and vehicles driven.
- Hold *directors, managers and supervisors* accountable for implementing discipline/corrective action consistent with the employee's due process and in consideration of the concept of progressive discipline and the applicable Memorandum of Understanding (MOU).

HRM staff will continue to research industry best practices and case laws to develop program enhancements that would benefit the City. Upon the receipt of policy guidance, HRM will make proposed changes to existing policy and request that Employee Relations facilitate the necessary Meet-and-Confer negotiations with labor unions as appropriate.

The attached appendix provides additional information regarding the current features of the vehicle accident review program in a Frequently Answered Questions format.

Summary

Given the large annual cost and other impacts related to accidents, HRM recommends a series of policy changes to reduce the frequency of accidents. Many of these changes will require meet-and-confer negotiations with the unions. HRM also recommends that a suitably qualified employee from the police department assist the ARCs to give an expert opinion on the police report and the dynamics of the accident.

/s/

ANIL COMELO

Director, Human Resources Management

For questions please contact Deborah Grant, Risk Manager, at 510-238-7165.

Attachment (1)

- Appendix: Questions regarding the City's Vehicle Accident Review Program

Appendix

Questions

Staff was asked by the Administration to respond to the following questions:

A. Is an employee's driving performance managed by each department or is there a citywide oversight by Risk Management?

Each department is responsible for managing its own Employee Driving Safety Program in accordance with existing Administrative Instructions (AI 587 & 588). HRM's Risk unit (Risk) provides resources and consultation to the departments. Risk also provides oversight by serving on the various accident review boards, informing departments of any changes to the law, monitoring driver's license status' through the Electronic Employer Pull Notice program (DMV tracking), reviewing all submitted accident packets, OPD traffic collision reports and vehicle damage reports submitted by OPW equipment division, as well as procuring specific safety training needs related to driving or accident investigation. One of the primary functions of the Risk unit is to make sure that all departments stay compliant with the various requirements and regulations stipulated by the State, City and other regulatory agencies.

B. Does the City keep a log of all employee driving accidents?

Each department is responsible for maintaining an internal log of its accidents over a three year period. Risk also maintains a database tracking accident information gathered from multiple sources. It is currently being updated and will be used to keep a complete log of all submitted accidents. Hard copies of accident forms and police reports for all accidents that have been submitted for every department within the City are maintained on file in the Risk office

C. Does Risk Management use any other tracking mechanisms beyond DMV notifications?

DMV notifications are limited to tracking only the accidents that have been reported and submitted to OPD. All other incidents/accidents that occurred on private property, City's property where no damage was caused are captured by the City Attorney office's accident packet, which includes driver and supervisor investigation forms. All employees are instructed to complete the forms for every incident/accident regardless of the severity. Police reports are also sent to us by OPD Traffic Division on a monthly basis so Risk is able to match them with the accident packets or be alerted to an accident that occurred that might not have been reported to the department. Risk also receives damage estimate reports from OPW's equipment shop which provides another tool for track accidents within the City.

D. How does the City investigate employee driving accidents?

According to AI 587, every accident must be reported to the police (unless on city property) and to the immediate supervisor or designee to conduct an accident investigation. The program relies heavily on the expertise of OPD to conduct thorough investigations. If an employee is injured during an accident, a 5020 form is required to be completed by the employee and/or supervisor, which is a part of the initial investigation. The supervisor's report, the OPD report, and the employee's accident report comprise the majority of the investigative process. OPW's Fleet & Safety Coordinator also conducts additional investigations for their agency. The above

mentioned reports are compiled and then reviewed by the departmental safety representative. The department's safety representative reviews all of the information to determine if the employee is at fault and/or if the accident was preventable so the departmental ARC can be activated to review the accident in question.

E. What are the corrective actions taken for employees involved in driving accidents while on duty?

Generally, the recommended corrective actions per the ARC could come in the form of an all hands safety tailgate specific to the circumstances surrounding the accident. This is typically offered if the accident was a minor infraction and the group as a whole would benefit from the education. Another recommendation would be additional online drivers training specific to the infraction or behind-the-wheel training depending on the severity and frequency of accidents. Through our online training provider, we have the flexibility to provide our employees with very specific training topics that can be tailored to particular infractions/ employees. If an employee has been involved in three preventable accidents within a three year period, the ARC recommends the department provide behind-the-wheel training to address the specific unsafe driving behaviors exhibited by that employee. Any action that exceeds the authority of the ARC, such as suspension of driving duties or reassignment, must be handled through the progressive discipline process. Employee Relations (ER) reviews and recommends discipline based on the severity of the incident.

F. Is the online "safe driver's training" course used by departments citywide? Are there other forms of training used/ available?

All City employees who drive vehicles for city business, regardless of the frequency of vehicle operation, are required to take the online Safe Driver's Training course at least once every three years. At this time, there is no required behind-the-wheel driver's training for noncommercial or non-sworn employees. Behind-the-wheel training is utilized on a case-by-case basis. All departments utilize the same driving program with exception of OFD and OPD.

OFD utilizes the same online training provider as Risk to conduct its online training, which has separate training classes as well as a separate database for the administration and monitoring of sworn & non-sworn employees. OFD in the past had a behind-the-wheel certification component that all drivers must adhere to every three years. OFD recently added a remedial training component for those members who have been involved in accidents which have been deemed preventable. The remedial training now consists of an abbreviated defensive driving class/video, obstacle course manipulation, driver route assessment, and when operable, the use of the driver simulator to supplement driver knowledge, skills and performance.

OPD drivers training program is an in-house program much like OFD, which requires an extensive annual behind-the-wheel training due to the nature of their jobs and assignments. OPD has annually required training hours that every officer must spend behind-the-wheel with the OPD vehicle safety officer.

G. What is the impact of employee driving accidents on the City's insurance rate?

Employee vehicle accidents have minimal impact on the overall insurance premium rates for the City. Since the City is self-insured for liability, the vast majority of vehicle accident claims fall well below the City's self-insured retention of \$3,000,000. As such, the frequency and severity of accidents rarely rise to a level that would be meaningful to our insurance underwriters. Having said this, employee accidents cost the City \$1,475,831 per year not including lost productivity and time off.

H. Survey: determine whether departments actually follow the protocols set forth in AI 587. If not, what process do they follow?

All non-sworn drivers are subject to the protocols set forth in AI 587. Based on reported accidents, we have a very high percent of compliant departments participating in the City's drivers program; especially from OPW, which is composed of the majority of drivers that are non-sworn. OPD and OFD are the departments that have sworn employees that utilize protocols outside of AI 587. OPD has an internal process General Order G-4 which outlines the agency's driving and accident procedures. OFD has Policy and Procedure 300.3 which governs the department's process for accidents and review.