STATUS OF RECOMMENDATIONS FROM THE 1992 CHP REPORT ON WORKERS' COMPENSATION

The 1992 Workers' Compensation Program evaluation resulted in 48 recommendations for improvements in the workers' compensation system (see Annex B for a copy of 1992 report). The 1992 recommendations are reproduced in the table below.

As part of the 2004 review of the Department's workers' compensation system, the CHP's Internal Affairs Section, Disability and Retirement Section, and the Office of Special Representative gathered information* about the current status of each 1992 recommendation and included it in the table below. As shown in the table, a number of recommendations were implemented in their entirety while others were abandoned due to legislative, political, or other factors outside the control of the Department. Other recommendations appear to have received little consideration or were withdrawn due to decisions by CHP's Executive Management. To the extent a recommendation is still viable and may result in improvements, it is incorporated into the 2004 recommendations and/or action steps. The status, "OPEN" indicates that the Department believes that additional work is necessary related to that recommendation. "CLOSED" indicates that no additional work is believed necessary.

**As a starting point, staff used a compliance review report completed in December 1995.*

STATUS OF 1992 RECOMMENDATIONS	
RECOMMENDATION	**STATUS**
1. Create an additional AGPA position to serve as the fourth program coordinator in Disability and Retirement Section (DRS).	**CLOSED** - Recommendation fully implemented.
2. Create an additional half-time clerical position in DRS.	**OPEN** - Position was filled in 1994 but lost due to state mandated budget cuts in 2002.
3. Create a rehabilitation specialist position in DRS to coordinate and safeguard the Department's interests.	**CLOSED** - Position created and filled as noted in Recommendation #1. Position continues to be filled.

STATUS OF 1992 RECOMMENDATIONS	
RECOMMENDATION	**STATUS**
4. Employees in all remaining bargaining units represented within the Department; and non-represented employees be included in Government Code Section 19876.5 and Labor Code Section 139.5.	**CLOSED** - 1994 legislation eased the concerns prompting this recommendation and DPA was no longer interested in this approach (as of 11/95). Recommendation withdrawn.
5. Evaluate the feasibility of administering rehabilitation programs internally within state service, rather than contracting for such services for those employees not qualifying under Government Code Section 19876.5 and Labor Code Section 139.5.	**CLOSED** - Recommendation not implemented. The Department of Personnel Administration reviewed the 1992 proposal and advised that administration could not be split between the State Compensation Insurance Fund and the Department. The employee benefit of vocational rehabilitation was subsequently eliminated, rendering this recommendation moot.
6. Propose legislation to amend Labor Code Section 139.5 to incorporate language specifying that injured employees who are eligible for maximum service retirement and opt to disability retire are not entitled to rehabilitation services.	**OPEN** - To date no legislation has been enacted addressing this specific recommendation. *2004 Recommendation: Amend Labor Code Section 139.5 to incorporate language specifying that injured employees who are eligible for maximum service retirement and opt to disability retire are not entitled to additional benefits other than medical costs related to the injury/disability.*
7. Place high priority on installing computer equipment in DRS.	**OPEN** - Recommendation implemented and DRS provided computers in 1995. The Health and Safety Section database was added in 1995 and DRS continues to use this database. *2004 Recommendation: Further upgrades of the database are*

STATUS OF 1992 RECOMMENDATIONS	
RECOMMENDATION	**STATUS**
	necessary as this system is nearly ten years old and will not meet the future demands of the Workers' Compensation Fraud Unit.
8. Command Management Plan strategies be developed by DRS pertinent to improving services. Particular emphasis should be directed toward interaction with management and supervisory levels throughout the Department. This interaction should include, but not be limited to: legal updates, current trends, reporting requirements, and overall issues relating to claims management.	**OPEN** - The 1994 status report indicated that the strategies identified in this recommendation would be included in the 1994 CMP. However, a review of the 1994 CMP and the CMPs in 2003 and 2004 revealed that claims management strategies were not included. *2004 Action Taken: WC case management strategies will be included in 2005 Strategic Plan.*
9. The participation of personnel within DRS should be solicited and considered in the development of CMP strategies.	**CLOSED** - Recommendation fully implemented.
10. Performance appraisals be completed annually by DRS commander as required and address the tasks associated with the Section's mission.	**CLOSED** - Recommendation fully implemented.
11. Disability and Retirement Section meetings should be scheduled on a periodic and regular basis following P&TD commander's meetings, to disseminate information emanating from Top Management and to discuss decisions made in managing cases.	**CLOSED** - Recommendation initially implemented in 1993. Ongoing compliance based upon related subject matter from Top Management.
12. Personnel and Training Division develop decision-making	**CLOSED** - Recommendation fully implemented.

STATUS OF 1992 RECOMMENDATIONS	
RECOMMENDATION	**STATUS**
guidelines for monetary settlements, with specific limits and decision levels approved by Executive Management.	
13. Establish a process for recommending compromise and release (C&R) denials similar to existing DRS practice of analyzing and presenting Executive Management with recommendations to approve C&R settlements that are above DRS monetary approval level.	**CLOSED** - Recommendation fully implemented (as part of Recommendation #12, above).
14. Budget Section and DRS review the feasibility of setting aside funds for C&R settlements taking into consideration the availability of funds.	**CLOSED** – Recommendation denied by the Department of Finance.
15. Personnel and Training Division develop a comprehensive initial training program on claims management with a specific focus on supervisory and management levels within the department. In addition, add injury case management training to the sergeant's academy curriculum; and increase as appropriate injury case management training being presented in existing departmental courses to enhance the ability of future supervisors and managers in managing claims. The training program should include but not be limited to all pertinent information contained in this report.	**OPEN** - Recommendation initially implemented, i.e., DRS provided initial injury case management training to all supervisors and managers in 1994. DRS coordinated with SCIF to repeat this training for all supervisors and managers in 1997/1998. Additionally, DRS provides instruction on injury case management at first line supervisors' and middle managers' training. *2004 Action Taken: DRS, SCIF, and the Workers' Compensation Fraud Unit (WCFU) will provide expanded training on case management and fraud prevention for supervisors and managers.* ***The WCFU has already provided fraud prevention training at the October 2004 first line supervisors' course.***

STATUS OF 1992 RECOMMENDATIONS	
RECOMMENDATION	**STATUS**
16. Personnel and training division develop a "Commander's Reference Book" which would include: 1) Comprehensive guidelines for managing workers' compensation claims and disability retirement cases, and; 2) Information explaining the role and responsibilities of DRS, SCIF, WCAB, and PERS. It is envisioned that the reference book would also serve as a guide and source document for the recommended workers' compensation training program discussed in Recommendation #15.	**CLOSED** - Recommendation fully implemented (see policy contained in HPM 10.7).
17. Establish a requirement that commanders be personally involved in claims management, particularly with problem cases. If the commander is unable to work directly with the SCIF adjuster to manage claims he/she shall ensure that a subordinate assumes this responsibility. If the commander elects to delegate this responsibility he/she must continue to follow-up and monitor the activities of each ongoing case.	**CLOSED** - This recommendation was incorporated into departmental policy in 1993 and was included in the DRS case management training program in 1994. HPM 10.7, Chapter 2, Case Management, now requires personal involvement by commanders.
18. Revise the commanders' CHP 118C to include a critical task addressing workers' compensation claims management. To adequately evaluate commanders on this task it will be necessary for division chiefs to develop a tracking system for off duty	**OPEN** - Recommendation not implemented since the current CHP 118C, Performance Appraisal – Commander, does not include this specific critical task.

STATUS OF 1992 RECOMMENDATIONS	
RECOMMENDATION	**STATUS**
injured employees for purposes of monitoring results.	
19. A worker's compensation refresher training course be provided on a regional basis if necessary.	**OPEN** - Recommendation initially implemented, i.e., a refresher course was presented to all supervisors and managers in 1997/1998 (see discussion for Recommendation #15). Also, DRS began providing information on significant cases at Division and Area Commanders Conferences (DACC) in 1995. This program was suspended approximately four years ago due to budgetary limitations on travel expenses. *2004 Action Taken: DRS personnel will begin attending DACCs in 2005 to present information on significant cases.*
20. Personnel and Training Division develop WCAB guidelines for use by commanders and their subordinate supervisors including evidentiary rules unique to the process.	**CLOSED** - Recommendation fully implemented (see policy contained in HPM 10.7).
21. Provide each field division with a resource expert to assist Area/Section commands in managing workers' compensation claims. Recognizing the current budgetary constraints, the audit team recommends these positions be reallocated from existing positions within each field division.	**CLOSED** - Recommendation fully implemented (see policy contained in HPM 10.7).
22. Provide a memorandum outlining the Department's	**CLOSED** - Recommendation fully implemented in 1993 and

STATUS OF 1992 RECOMMENDATIONS	
RECOMMENDATION	**STATUS**
expectations to employees who will be off duty for an extended period of time. The memorandum should also address the Commander's concern for the employee's welfare and the benefits available.	included in the DRS case management training program in 1994. HPM 10.7, Chapter 2, Case Management, and Chapter 5, Documentation, now require that commanders send a memorandum in accordance with this recommendation. A sample memorandum is included as Annex P-15 in HPM 10.7.
23. Commander should make frequent contact with injured employees who are off duty for purposes of showing concern for their well-being. It should be clearly established that Commanders have a responsibility for maintaining contact with injured employees and, as such, they have every right to maintain an ongoing dialogue even when the employee has engaged the services of an attorney.	**CLOSED** - Recommendation fully implemented in 1993 and included in the DRS case management training program in 1994. HPM 10.7, Chapter 2, Case Management, now requires contact with injured employees as described in this recommendation.
24. Personnel and Training Division incorporate in Department policy a requirement that Commands maintain a visual tracking system of off duty injured employees.	**OPEN** - Recommendation fully implemented in 1993 and included in the DRS case management training program in 1994. HPM 10.7, Chapter 2, Case Management, now requires that commanders maintain a CHP121D (Injury/Illness Status Report) for all employees who are assigned to limited duty or are off duty as a result of an industrial injury or illness. *2004 Recommendation: A new reporting system and policy should be developed to require negative CHP 121D reports and include WCFU review of suspicious activities.*
25. Personnel and Training Division develop specific guidelines	**CLOSED** - Recommendation fully implemented in 1993 and

STATUS OF 1992 RECOMMENDATIONS	
RECOMMENDATION	**STATUS**
for approving fitness for duty examinations at Division level. These guidelines should include information relating to the distinction between fitness for duty examinations and medical evaluations arranged through SCIF.	included in the DRS case management training program in 1994. HPM 10.7, Chapter 7, Department-Ordered Fitness-For-Duty Examination and State Compensation Insurance Fund-Ordered Medical Examination, provides explicit instructions regarding fitness-for-duty examinations and clarifies the procedural differences between departmental-ordered examinations and SCIF-ordered medical examinations. It should be noted that HPM 10.7 requires that departmental examinations be approved by the appropriate Assistant Commissioner rather than at the Division level.
26. Investigation Unit, assisted by P&TD, develop guidelines to distinguish fraudulent claims or abuses of the system from legitimate claims. These guidelines should also address the ethical considerations associated with both Workers' Compensation claim reporting and management. This information should be included in the training proposed in Recommendation #15 *[from 1992]*.	**OPEN** - Recommendation fully implemented in 1993 and included in the DRS case management training program in 1994. HPM 10.7, Case Management, provides a cursory discussion about workers' compensation fraud and/or abuse and directs commanders to notify Internal Affairs Section if fraud is suspected. Annex A-1 in HPM 10.7 contains a list of potential fraud indicators. It should be noted that HPM 10.7 does not specifically address ethical considerations associated with claim reporting and management as proposed in the recommendation. *2004 Action Taken: WCFU will be established to coordinate with DRS for fraud prevention training, reporting of suspected fraudulent claims, investigations, etc.*

STATUS OF 1992 RECOMMENDATIONS	
RECOMMENDATION	**STATUS**
27. Interim training be presented to Division and Area Commanders on the pertinent issues surrounding Workers' Compensation to serve as a "bridge" between the time this audit is released and formal training is implemented. The interim training should be presented jointly by DRS, BIA, and SCIF at Division Area Commander's Conferences during 1993.	**OPEN** - The interim training proposed in this recommendation was not provided. Rather, Division and Area Commanders received the initial injury case management training provided by DRS in 1994 (see above discussion on Recommendation #15). *2004 Action Taken: DRS will provide training to command staff responsible for case management.*
28. Personnel and Training Division establish guidelines to be followed by local commanders on selecting reputable 24-hour medical clinics. These guidelines should be incorporated into the reference book proposed in Recommendation #16 and included as part of the training program in Recommendation #15 *[from 1992]*.	**CLOSED** - Recommendation fully implemented (see policy contained in HPM 10.7).
29. Personnel and Training Division establish guidelines for commanders to include: 1) retaining a current list of approved physicians; 2) methods of reporting unsatisfactory service, and 3) a means for removing the physician from the approved list if allegations of unsatisfactory service are justified.	**CLOSED** - Recommendation fully implemented (see policy contained in HPM 10.7).
30. Personnel and Training Division, with the assistance of the Office of Employee Relations (OER) and the Department's General Counsel, support legislation to modify the medical evaluation process to be patterned after the arbitration procedure	**OPEN** - To date no legislation has been enacted addressing this specific recommendation.

STATUS OF 1992 RECOMMENDATIONS	
RECOMMENDATION	**STATUS**
currently used to resolve employee/employer relation disputes.	
31. Personnel and Training Division with the cooperation of PERS legal staff determine the legal feasibility of discontinuing off duty PPP injuries as job related. This will necessitate a change in the Unit 5 contract for STO and revisions to policy in HPM 70.9, Physical Performance Manual, for Sergeants and above.	**OPEN** - It is unknown whether the Department explored legislative and/or Unit 5 contractual changes to immunize the Department from claims for off duty injuries related to the PPP. However, this recommendation was apparently the subject of discussions and negotiations between the Department and the CAHP from 1993 through early 1995. As part of the 1995 Memorandum of Understanding between the Department and the CAHP, the PPP was abolished. *2004 Recommnendation: The issue of providing incentives for physical fitness while limiting exposure from off duty injuries should be revisited because of the newfound sense of urgency to reform the WC system.*
32. Personnel and Training Division continue to work with SCIF to assure that adjusters are performing their responsibilities satisfactorily and that they are not transferred arbitrarily.	**CLOSED** - Recommendation fully implemented and compliance is ongoing based upon responsibilities contained in the master agreement between the State Compensation Insurance Fund and the Department of Personnel Administration.
33. Personnel and Training Division develop guidelines for commanders to maintain a liaison with regional SCIF managers to enhance the working relationships with SCIF adjusters and provide continuity in claims management.	**CLOSED** - Recommendation fully implemented (see policy contained in HPM 10.7).
34. Personnel and Training Division request SCIF modify their	**CLOSED** - Recommendation fully implemented and

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policy to assign SCIF adjusters based on the employee's work location rather than the employee's residence.	compliance is ongoing based upon responsibilities contained in the master agreement between the State Compensation Insurance Fund and the Department of Personnel Administration. SCIF claim assignment may be altered based upon departmental request and the consolidation of SCIF offices.
35. Legislation be sponsored by the Department to amend Labor Code Section 3202 requiring WCAB judges to interpret workers' compensation laws "equitably" rather than "liberally and in favor of the employee."	**CLOSED** – Workers compensation reform legislation effective 2004 enacted this change.
36. The Department's legal counsel further research the issue of enhancing service retirements to confirm or rebut PERS legal opinion that it is not feasible.	**OPEN** - This recommendation was implemented in 1993 after the issue of enhanced service retirements was studied by the Department's General Counsel and DRS. Although the General Counsel determined that a proper enhanced service retirement program could withstand a discrimination challenge, DRS determined that the Department would incur considerable expense to offset the tax advantages provided by a disability retirement. Given the expense and lack of assurance regarding the outcome of such a program, it was determined that an enhanced service retirement was impracticable. No further action has been taken. *2004 Recommendation: The issue of an enhanced service retirement should be re-visited as a means of reducing IDRs.*
37. Propose legislation (similar to Government Section 21300) *[currently Section 21342 due to code realignment]* to establish	**OPEN** - This proposal was determined to possibly involve collective bargaining in addition to legislative changes and DPA was not interested in pursuing this mandatory approach in

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earnings offset for retirees employed outside PERS by restricting combined earnings (disability retirement plus outside earnings) to no more than the employee's salary level upon retirement for uniformed employees.	November 1995. Recommendation was withdrawn. *2004 Recommendation: Establish an earnings offset for retirees employed outside PERS by restricting combined earnings (disability retirement plus outside earnings) to no more than the employee's salary level upon retirement (similar to Government Code Section 21300).*
38. The Department take a proactive role in supporting legislation beneficial to improving management of the workers' compensation system. In addition, DPA be advised of the Department's position and lobby for their support.	**CLOSED** - Prior to December 1995, the Department was directed to defer this recommendation to DPA.
39. Legislation be sponsored by the Department to align the provisions of Labor Code Section 4800 with Section 4850, which applies to all local law enforcement agencies.	**CLOSED** - Labor Code Section 4800.5 was enacted and appeared to adequately address this recommendation.
40. The Department initiate steps to challenge the Amborn Decision, which effectively entitles a member of the CHP who is disabled temporarily or permanently by an industrial injury to a full year's salary in lieu of disability programs.	**OPEN** – Prior to 1995, Executive Management decided to take no action related to this recommendation.
41. Propose legislation to provide continuance of salary (to be reimbursed by PERS) from the time the injury is declared permanent and stationary until the disability pension begins.	**CLOSED** - DPA was considering legislative relief in November 1995. Recommendation withdrawn.
42. Personnel and Training Division with the assistance from the Department's legal counsel and OER, develop a proposal to	**OPEN** - On January 8, 1993, an Executive Staff decision was made not to change physical demands for managers, but rather to

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RECOMMENDATION	**STATUS**
legislatively redefine "incapacitation for continued employment" in Vehicle Code Section 2268 to parallel the standard PERS uses to determine "incapacity" for local law enforcement agencies. That standard is interpreted to mean "the substantial inability of an individual to perform his/her usual duties." NOTE: The proposal needs to address the potential impact of the Americans with Disabilities Act (ADA).	hold everyone to the standards of an officer. Recommendation withdrawn. *2004 Recommendation: The Department should revisit the 14 critical tasks as they apply to higher-ranking employees and/or employees in administrative positions. It may prevent some IDRs and worker's compensation claims if the tasks are limited to employees below a certain rank.*
43. Eliminate the existing 19 medical standards and when the new physical demands survey is completed and validated, utilize those standards to evaluate employees for disability retirement.	**CLOSED** - The 19 medical standards were revised into the 14 Critical Task Statement in 2000. The 14 Critical Tasks continue to be used as the departmental standards to determine full duty status.
44. Personnel and Training Division ensure that DRS includes its computer program the capability to track disability retirements and their relationship to mandatory reinstatements and subsequent retirements.	**CLOSED** - Recommendation completed and compliance is ongoing based upon use of the HSS database.
45. Evaluate mandatory reinstatement requests more thoroughly to include IU in the review process to identify potential improprieties early and assure appropriate investigative steps are pursued.	**OPEN** - It does not appear that this recommendation was fully implemented. The 1994 status report states there is a "process in place" and a letter to reinstatees was developed to outline the Department's expectations. However, there is no indication that policy or procedures exist to ensure that mandatory reinstatement requests be reviewed by workers' compensation fraud investigators.

STATUS OF 1992 RECOMMENDATIONS	
RECOMMENDATION	**STATUS**
	2004 Action Taken: The WCFU, in conjunction with DRS, will develop procedures to review and track mandatory reinstatement requests for indicators of fraud.
46. Personnel and Training Division initiate steps to form a Workers' Compensation Committee comprised of division chief level representatives from the CHP and equivalent level executives from PERS, SCIF, DPA, Division of Workers' Compensation, and WCAB. California Highway Patrol representatives should include the P&TD Chief and Assistant Chief commanding the BIA.	**OPEN** - Recommendation not implemented. *2004 Action Taken: The Department will invite other involved agencies to participate on a committee to explore a wide range of solutions.*
47. The Department adopt a plan to post audit paid SCIF billings within a reasonable time frame.	**OPEN** - There is no current mechanism for reviewing SCIF billings. *2004 Action Taken: The Department will conduct a small scale audit to assess the current accuracy of SCIF's billing process.*
48. Provide the DPA with a copy of our finding and request DPA amending the SCIF interagency agreement to include provisions requiring assurance that control procedures in processing payments are in place at the SCIF offices.	**CLOSED** - The current master agreement contains language that requires SCIF to utilize an automated bill review system. The purpose of this system is to ensure proper bill payment.