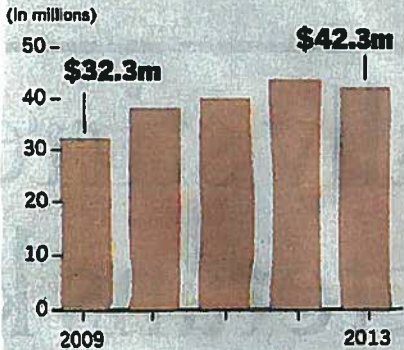


# A HUGE HURT FOR TAXPAYERS

Rising injury-leave claims from L.A. police and fire staff mean higher overtime costs and fewer cops on the beat

## L.A. paid \$197 million over five years for injury leaves

**Injury leave salary payments are up ...**  
Public safety employees, 2009 to 2013



**... average leaves are longer ...**  
For police and firefighters



**... and nearly one in five take leave**  
Percent of sworn employees in 2013



## Additional medical expenses totaled \$131 million

Medical care, disability settlements and other non-salary expenses for employees' injury claims from 2009 through 2013.

<p><b>\$65,377,171.56</b></p> <p><b>Cumulative trauma, occupational disease</b></p> <p>Medical problems such as back pain and high blood pressure; not tied to a specific incident.</p> <p><b>49.9%</b></p>	<p><b>\$33,299,604.73</b></p> <p><b>Overexertion</b></p> <p>Includes injuries from reaching, lifting, twisting, etc.</p> <p><b>25.4%</b></p>
<p><b>\$8,401,696.40</b></p> <p>Struck by vehicle</p> <p><b>6.4%</b></p>	<p><b>\$4.8m</b></p> <p>Struck by object</p> <p><b>3.7%</b></p>
<p><b>\$6,703,724.10</b></p> <p>Trips, slips and falls</p> <p><b>5.1%</b></p>	<p><b>\$4.7m</b></p> <p>Accidental contact with another person</p> <p><b>3.6%</b></p>
<p><b>\$714,593.27</b> (0.5%) Exposure to carcinogens, chemicals, noise and other hazards</p>	<p><b>\$3.4m</b></p> <p>Act of violence</p> <p><b>2.6%</b></p>
<p><b>\$353,598.63</b> (0.3%) Contact with fire, extreme heat and smoke inhalation</p>	<p><b>\$3.3m</b></p> <p>Other</p> <p><b>2.5%</b></p>

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# Special Report L.A. pays millions as police and firefighter injury claims rise

By JACK DOLAN

SEPTEMBER 28, 2014, 8:00 AM



A look at the injury leave of police and firefighters in L.A.

**L**os Angeles Fire Capt. Daniel Costa liked to go all out on the racquetball court at the LAX fire station. A fellow firefighter described him as a "very competitive" player who "likes to win."

Costa seemed in fine form after five spirited games in the fall of 2011. So his supervisor was skeptical when Costa, then 53, said he'd hurt his knee on the court and needed time off, according to a report by investigators for the city attorney's office.

Costa was out on injury leave for a year, collecting his full salary, tax-free.

In 2009, he took a nearly year-long paid leave after a run-in at the fire station with subordinates he described as "bullies." He complained of chest pain, high blood pressure and other symptoms, state records show.

Costa has been one of the biggest beneficiaries of an injury-leave program for Los Angeles police and firefighters that has cost taxpayers \$328 million over the last five years, a Times investigation found.

Total salaries paid to city public safety employees on leave increased more than 30% — to \$42 million a year — from 2009 through 2013, the five-year period studied by The Times.

The number who took leaves grew 8%, and they were out of work an average of nearly 9 weeks — a 23% increase compared with 2009.

The increased frequency and cost of leaves has forced the Fire Department to spend millions of dollars a year in overtime and reduced the number of police officers on the street.

# Injury claims on the rise in L.A.

## Questions about injury claims

Fire Capt. Daniel Costa took a nearly 12-month injury leave after complaining of chest pains and other ailments. Four months in, state records show a cardiologist cleared Costa to return to work after a treadmill test showed Costa had "exceptional conditioning" and "excellent exercise capacity."

... of the metoprolol beta-blocker. His subsequent echocardiogram, which showed mild dilation of the left ventricle, likely explaining the left axis deviation. The systolic function was adequate with an ejection fraction of 59%; however, he had diastolic dysfunction. He also had trace mitral and tricuspid insufficiency, both of which are of questionable significance. His treadmill stress echocardiogram showed exceptional conditioning with exceptional excellent exercise capacity, in which he completed the protocol without any stress-induced ischemic ST segment changes, wall motion abnormalities, or chest pain. This concluded any possibilities that the left anterior fascicular block is due to underlying ischemia. It has also excluded the fact that his arrhythmias and/or chest pains are related to any underlying ischemic heart disease. This, therefore, brings into conclusion that his chest pains and palpitations are more a function of stress and anxiety than underlying

After LAPD Sergeant Mark Zimmerman spent two years on injury leave, a neutral doctor questioned whether the ailments Zimmerman claimed were serious enough to keep him off work on Temporary Total Disability, or TTD.

... however, I would endorse Dr. Franklin's view that this episode of symptoms on 1/20/2011 was in fact a manifestation of emotional upset, not a cardiovascular disorder.

He opined that Mr. Zimmerman never experienced psychiatrically-based TTD.

Therefore, if this patient never experienced TTD on a psychiatric basis, per the AME in psychiatry, and his blood pressure was barely elevated and then normal, per the few blood pressure readings we have from Dr. Rudolph as noted above, how does that square with Mr. Zimmerman telling me that he was on IOD for a full year for hypertension and a full year for mental health issues?

City leaders across California say the very design of the injured-on-duty program, IOD for short, invites abuse. Because injury pay is exempt from both federal and state income taxes, public safety employees typically take home significantly more money when they're not working. And time spent on leave counts toward pension benefits.

"What's the incentive to come back to work?" asked Frank Neuhauser, executive director of the Center for the Study of Social Insurance at UC Berkeley and a leading workers' compensation researcher.

The rate of claims in Los Angeles "is astronomical," he said. "It boggles the mind."

Nineteen percent of L.A. police and firefighters took at least one injury leave last year, a rate significantly higher than those of other large local governments, The Times found.

For public safety employees of L.A. County and the city and county of San Francisco, the rate was 13%. In Long Beach, it was 12%. In San Diego, it was 10%.

In all, L.A. police and firefighters on injury leave collected \$197 million in salary from 2009 through 2013. Taxpayers spent an additional \$131 million on their medical care, disability payments and related expenses, Personnel Department data show.

A disproportionate amount of injury pay went to a small fraction of employees who took leaves again and again, sometimes reporting a new injury just as a previous leave was about to expire.

Costa was on injury leaves 18 times for periods ranging from one day to a year during the 10 years before he retired in 2013, according to payroll records.

From 2009 to 2013, he collected \$242,500 in injury pay, the records show.

Costa declined to comment. His attorney, Charles Adcock, said Costa has had "legitimate injuries repeatedly throughout his career, and went back to work when many people would have gone out on retirement." He declined to elaborate.

Records show that Costa suffered head and back injuries in two building collapses early in his career.

In an email, Beth Costa wrote that her husband's injury record reflects the inherent dangers of firefighting.

"Dan knowingly and willingly put his life on the line for perfect strangers for 35 years. That doesn't come without consequence nor does it come without time off when you are injured," she wrote.

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California legislators first mandated 100% pay for injured public safety employees during the Great Depression to ensure that those protecting the public wouldn't hesitate to chase a criminal or run into a burning building for fear of losing their livelihood.

Over the years, lawmakers and local officials have expanded the range of ailments deemed to be job-related. They now include sore backs, heart disease, stress, cancer — even Lyme disease.

Because police and firefighters are expected to stay in shape, an injury sustained playing racquetball at a firehouse would be covered. An LAPD officer recently was granted injury leave after he hurt himself bench pressing 400 pounds at the Police Olympics in Las Vegas.

The increased leaves are putting a financial squeeze on emergency services in Los Angeles.

More than one in four of L.A.'s 3,200 firefighters took injury leaves last year, The Times found.

To fill those shifts, the Fire Department is spending more than \$51,000 per day — or nearly \$19 million annually — on overtime, LAFD officials said. The expense has come at a particularly difficult time for an agency struggling to pay for new equipment and hire recruits.

At the Police Department, where overtime has been severely restricted, the rising number of injury leaves means fewer officers on the street. Each absent officer represents "one shift that doesn't get filled, one neighborhood that doesn't get patrolled," said Cmdr. Andrew Smith, the department spokesman.

City officials offer a number of theories for the rise in claims and costs: an aging workforce; delays in approval of medical treatment; and the cuts in police overtime, which eliminated a key financial incentive for injured officers to return to work quickly.

But among the most frequently cited explanations is a kind of cultural shift in the workforce — as employees see their colleagues take more and longer leaves, they do the same.

"I would say, without any ill-intent, it just becomes a practice," said David Luther, interim general manager of the city's Personnel Department. "It becomes somewhat automatic."

Frank Lima, president of the city firefighters' union, said his members are suffering more injuries due to fatigue. He pointed out that the ranks of city firefighters have dropped by several hundred in recent years because of attrition and a hiring freeze.

"We're short-staffed. We're being run into the ground," Lima said. "It's a recipe for injuries. If anything, I'm surprised [the rate of injury claims] is not higher."

The union representing LAPD officers declined to comment.

Fewer than 5% of injury claims by L.A. police and firefighters over the five years studied by The Times were attributed to acts of violence, smoke inhalation or contact with fire or extreme heat, Personnel Department data show.

Most common are leaves for "cumulative trauma" — an umbrella term for medical problems that are not linked to a specific on-the-job injury.

Those claims run the gamut of ailments that can afflict aging bodies regardless of profession: back strain, knee strain, high blood pressure, carpal tunnel syndrome.

Cumulative trauma accounts for "the bulk of our big claims," typically filed by officers nearing retirement, said Karl Moody, a lawyer and former Los Angeles police officer who is head of workers' compensation investigations for the city attorney's office.

Even if city officials are suspicious about an injury claim, fraud is difficult to prove. It's not enough to show that an employee has engaged in strenuous physical activity while on leave. Investigators typically must prove that the injury occurred off-duty or that the employee lied about his or her condition to obtain benefits, according to prosecutors.

Of the more than 6,700 city public safety workers who have taken at least one injury leave since 2009, only a handful have been criminally charged.

The challenge is illustrated by the case of LAPD Officer Jonathan Hall, 45, who collected more than \$98,000 during a year off recuperating from a 2012 shoulder injury, according to interviews and payroll records.

Last year, while Hall was on injury leave, undercover officers videotaped him giving scuba lessons for a dive center in Long Beach, according to court testimony by LAPD investigators. Hall was charged with insurance fraud, workers' compensation fraud and grand theft.

On Tuesday, a Superior Court judge said Hall's work at the scuba center seemed "fraudulent by nature." But he dismissed most of the charges, citing lack of direct evidence that Hall had misrepresented his condition to the doctor who declared him disabled.

Hall still faces one count of attempted perjury in connection with statements made during a deposition. He has pleaded not guilty.

Former firefighter Raphael Davis competed as a professional mixed martial arts fighter under the nickname "The Noodle" while on leave for a shoulder injury.

Davis pleaded guilty to filing a false workers' compensation claim and was required to pay

# Injury claims cost L.A.

LATIMES.COM

# millions

Los Angeles Times

★ SUNDAY, SEPTEMBER 28, 2014 A13



KEITH MULLS

**FORMER L.A. FIREFIGHTER** Raphael "The Noodle" Davis, left, competed in mixed martial arts while on leave for a shoulder injury. He pleaded guilty to filing a false workers' comp claim and had to pay \$30,000 in restitution. Above, he fights Tony Lopez in October 2010.

\$30,000 in restitution.

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Some of the city's longest and most expensive injury cases do not involve allegations of fraud. Rather, they illustrate a cascade effect in which often-disputed symptoms such as chronic pain and stress accumulate through the years.

LAPD Sgt. Mark Zimmerman collected \$259,500 in IOD pay from 2009 to 2013, payroll data show.

Zimmerman's record of job-related injury claims dates back at least 25 years, according to state Workers' Compensation Appeals Board records. His most recent string of ailments began in 1999, after a fellow officer put him in a headlock during a training exercise and injured Zimmerman's neck and back.

In 2003, he took a leave for surgery to address chronic pain stemming from the incident, and was prescribed increasing amounts of painkillers, the records show. Four years later, he went on leave again for experimental surgery to relieve the pain. It was unsuccessful, the records show.

More recently, he began a two-year leave in February 2011. Zimmerman told doctors his supervisor was upset about his use of sick time for a rash and used "foul language," creating a "super negative" atmosphere, the state records show.

When a neutral physician, Gary Stewart, examined him in February 2013, Zimmerman told the doctor he'd been on injury leave one year for high blood pressure and a second year for psychiatric issues, according to Stewart's report.

After reviewing his medical history, Stewart concluded that Zimmerman had not been psychiatrically disabled and that his "blood pressure was barely elevated" before returning to normal.

"How does that square with Mr. Zimmerman telling me that he was on IOD for a full year for hypertension and a full year for mental health issues?" Stewart asked in his written evaluation.

He concluded that Zimmerman should consider a less-stressful line of work because of diminished coping skills.

Zimmerman declined to be interviewed for this story, and his attorney did not respond to requests for comment.

Zimmerman's injury leave ended days before his visit to Stewart, payroll records show, and he has spent the last year-and-a-half on vacation and sick leave.

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An injured-on-duty claim begins when an employee seeks medical attention for a physical or psychological problem he or she believes is work-related.

If a doctor agrees that the injury is job-related and declares the employee temporarily disabled, he or she is authorized to begin a leave and the city is responsible for the cost of medical treatments.

After a year of full-salary injury pay, police and firefighters are eligible for workers' compensation, which is available to all Californians and pays up to 66% of salary tax-free for up to another year. Those benefits are capped at just over \$1,000 a week.

An employee can avoid the reduction in pay by filing a new claim for a different ailment, which resets the clock and provides up to an additional year of injury leave.

In some cases, employees file consecutive claims, reporting a new injury just as a previous leave is about to end.

More than 300 police and firefighters took more than 12 months of injury pay between 2009 and 2013, The Times found. They represented just 5% of sworn employees on leave, but collected 23% of the total payments, city records show.

"We call them frequent fliers," said David Noltemeyer, chief of the Los Angeles Personnel Department's Workers' Compensation Division.

Some city officials and attorneys for injured employees blame the city's Personnel Department for the increasing length of leaves, saying it has been slow to authorize payments for medical treatments prescribed by employees' doctors.

"I've been doing this 25 years. It has never been like this, and it is only getting worse," said Julie Sherman, a Van Nuys attorney who represents injured employees.

"These [employees] are stuck at home. They want to go to work. They're going crazy."

Noltemeyer said the city isn't to blame. He said the city authorizes payments in less than two days for treatments that are within its guidelines. Delays occur only if a doctor requests something the city's medical experts believe is unnecessary, he said.

Noltemeyer said he could not estimate the percentage of treatments that are challenged by the city.

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State lawmakers first required 100% injury leave pay for state police in 1937. They expanded that benefit to cover public safety employees in local governments two years later.

Pressed by police and firefighter organizations and workers' attorney groups, which are among the state's most influential lobbying and campaign fundraising groups, legislators have repeatedly amended the law to cover new categories of employees, including L.A. County and San Diego lifeguards and University of California police.

Six of California's 10 largest cities, including Los Angeles, have extended the 100% injury pay benefit to civilian employees. But they take leaves at a much lower rate than sworn employees. In L.A. last year, civilian workers' leaves cost less than half the amount paid to police and firefighters.

Over the decades, state legislators have expanded a list of medical conditions presumed to be related to police work and firefighting. They added "heart trouble" in 1939, tuberculosis in 1957 and meningitis, Lyme Disease and HIV in the early 2000s.

Inclusion of a medical condition on the list makes it harder for city officials to challenge the connection between the claimed illness and the job.

In 1982, California became the first state in the nation to presume that cancer in firefighters is related to on-the-job exposure to smoke and other toxins. Seven years later, the legal presumption was expanded to include police.

If a public safety employee can demonstrate on-the-job exposure to a carcinogen, other factors — such as a lifetime of smoking or a family history of cancer — carry little weight in adjudicating claims, city officials said.

Former State Sen. Art Torres (D-Los Angeles) said he introduced the cancer presumption legislation primarily to spare widows of police and firefighters "the awful situation of having to prove their husbands' cancer was caused by toxic chemicals."

He said he did not intend the laws to provide benefits to living employees.

L.A. spent \$9 million between 2009 and 2013 on medical care and disability payments related to police and firefighters' cancer claims, city records show. Publicly available data don't indicate how much the city paid those employees in salary while they were on leave.

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Once an employee is on leave, city officials can seek to have him or her return to work and perform light duty such as filing or answering phones.

If the employee's doctor does not agree, the city can request a second opinion from a neutral physician chosen from a list provided by the state Department of Industrial Relations. Noltemeyer said that review can take longer to complete than the one-year period of injury benefits. The process starts over if the employee files a new claim for a different problem.

The reports by neutral doctors and other medical records, normally confidential, become public if the worker or employer introduces them as evidence before the state Workers' Compensation Appeals Board, which determines whether an employee is entitled to a permanent disability payment in addition to his or her salary.

The Times reviewed more than a thousand pages of such records from cases involving the city's top recipients of injury benefits, including Costa, the fire captain at LAX.

In 1982, Costa was injured when a building collapsed and he landed on an air tank strapped to his back, according to the state records. He aggravated that injury and hurt his head during a second structure collapse, according to a doctor's report from 1997.

Beth Costa said her husband's back condition has required him to take painkillers daily. The medications have led to serious complications, she said, including damage to his colon, pancreas and kidneys.

Costa also took leaves for a knee injury suffered playing handball while at work in 1996 and neck and upper spine injuries sustained playing basketball while on duty in 2000, according to the state records.

Noltemeyer said records available to him show Costa also claimed back injuries from lifting a ladder, lifting a generator, pulling a hose, and getting out of bed for inspection at a firehouse.

In addition to the salary he collected while on leaves over the years, the city has paid Costa \$38,237 in permanent disability benefits for three of his injuries, according to Noltemeyer.

In early 2010, when Costa was four months into a nearly year-long leave for chest pain, stress and other ailments, state records show that a cardiologist reported that a treadmill test showed Costa had "exceptional conditioning" with "excellent exercise capacity."

The doctor concluded Costa could return to work the next day.

Instead, he stayed out until the leave expired. Then he remained off-duty using sick days and vacation time. He returned to the LAX station for his final tour of duty in the spring of 2011, city payroll records show.

Fire Capt. Randall Keyes told investigators from the city attorney's office that Costa had been

scheduled to retire in about a year and a half, but said he wanted "to leave as soon as possible and take advantage of living life to the fullest," according to the investigators' summary of the interview.

At the station, Costa regularly played racquetball and handball, the report said.

On Oct. 31, 2011, Costa played five games of racquetball, the report said. The next day, a fellow captain overheard Costa on the phone telling a supervisor he was going home and wouldn't be back, according to the report.

Two weeks later, Costa filed a claim saying he had hurt his knee on the racquetball court. City investigators concluded he'd sustained no new injury, Noltemeyer said.

A short time later, Costa filed a cumulative trauma claim for his knee, which did not require proof of a specific time and place of injury. The city accepted that claim, Noltemeyer said. Costa spent a year on injury leave, payroll records show.

Toward the end of that absence, Costa began a new injury leave for prostate cancer and received injury pay until he retired in March 2013, Noltemeyer said.

Six months later, according to the department's golf club website, Costa won his division in the LAFD's annual Partner's Championship Golf Tournament.

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