

RISK MANAGEMENT:

It's Quite the Ride



SAVING MONEY SAVING LIVES: REDUCING LAW ENFORCEMENT LIABILITY

Thomas B. Danenhowe, RS
Risk Management Specialist
Montana Municipal Interlocal Authority
tdanenhowe@mmia.net

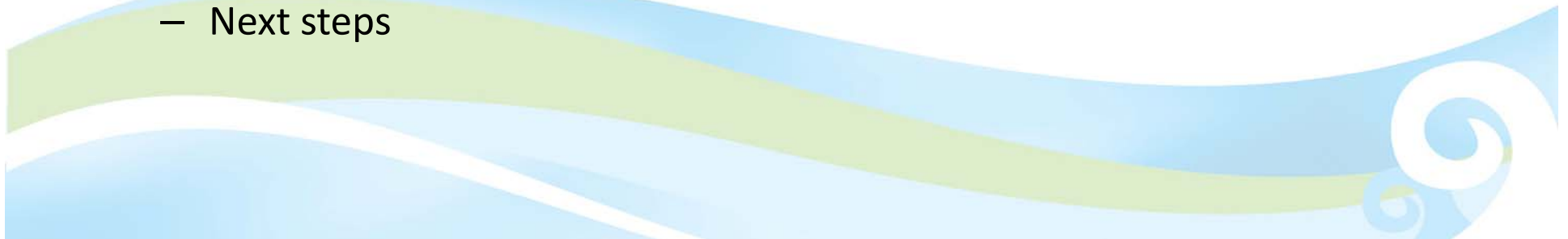
AGENDA

- Introduction – interactive & informal PLEASE!
- What is the Montana Municipal Interlocal Authority (MMIA)?
- Objective #1:
 - MMIA law enforcement injury & liability claims data
 - Development of Montana’s Model Policies for law enforcement
 - Development of behavior-based safety audit tools
- Objective #2:
 - Theory and implementation of model policies
 - Theory and implementation of behavior-based safety audit tools
 - Development and implementation of MMIA’s Risk Avoidance Program (RAP) for law enforcement using elements of the model policies

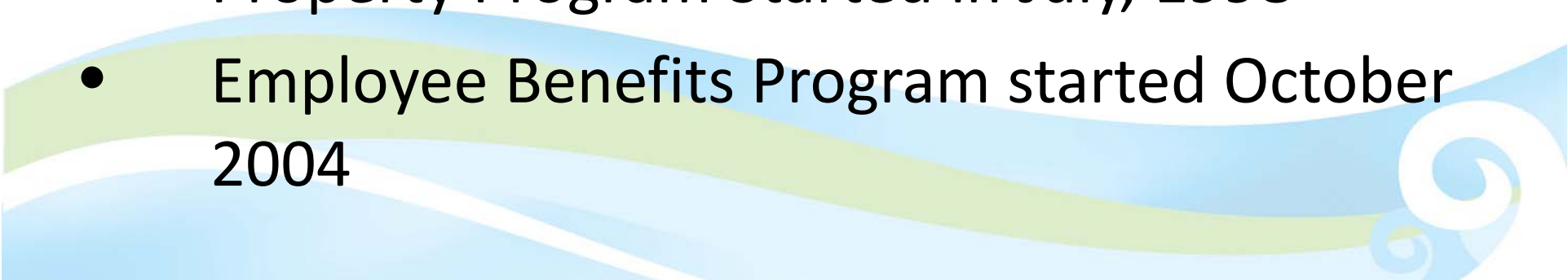


AGENDA - Continued

- Objective #3:
 - An in-depth look at several of the key model polices
 - Key elements of the behavior-based safety audit tools and Risk Avoidance Program
 - Strategies for raising awareness of risk, training and accountability
- Objective #4:
 - Top management buy-in. The power of comparisons!
 - Application - a team approach with the Risk Avoidance Program (RAP)
- Objective #5
 - Results to date
 - Next steps

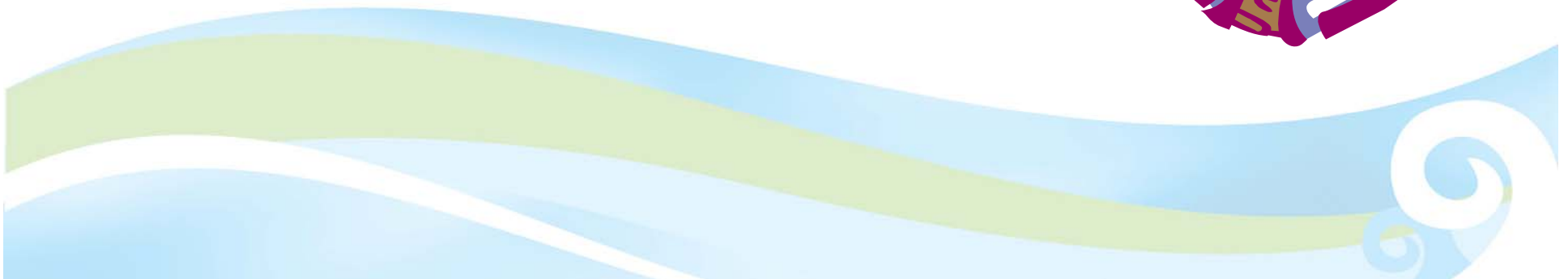


ABOUT THE MONTANA MUNICIPAL INTERLOCAL AUTHORITY

- MMIA Formed in 1986 – municipalities could not get liability & workers' compensation coverage
 - Law enforcement was the “problem child”
 - W/C Program started January, 1986
 - Liability Program started April, 1986
 - Property Program Started in July, 1998
 - Employee Benefits Program started October 2004
- 

ABOUT THE MONTANA MUNICIPAL INTERLOCAL AUTHORITY

- 123 Members of 129 eligible cities & towns
- Inter-local government entity owned and operated by Montana cities and towns
- MMIA covers about 1,000 police officers



ABOUT THE MONTANA MUNICIPAL INTERLOCAL AUTHORITY

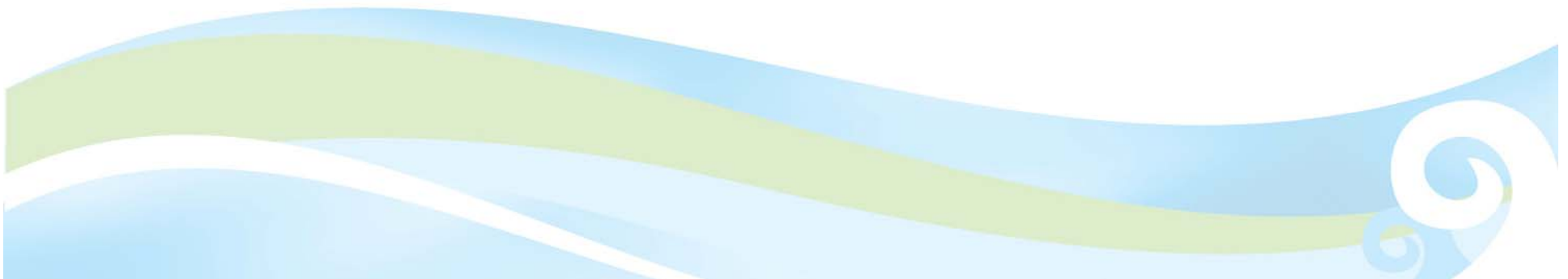
- Four Separate and Distinct Coverage Programs
 - **Worker's Compensation**
 - **Liability**
 - **Property**
 - **Employee Benefits**
- Board of Directors
 - **15 Members – Seven from large cities, seven from small cities, one at-large**
- Staffing – Full Service Risk Management and Insurance Operation
- Contracted Services – Legal & Actuarial



ABOUT THE MONTANA MUNICIPAL INTERLOCAL AUTHORITY

- Liability litigation is Almost a given
 - We cannot fence in the city and parks
 - Even if we do, people will climb the fence!
- Liability 101...It is all about being Reasonable & Prudent
- Duty
 - For example, to “follow policy”
- Breach of Duty
- Proximal Damage – related to breach of duty
- Leading to negligence

– ***THIS IS A LOT OF WORK, BUT....***



Remember – it could be worse!!

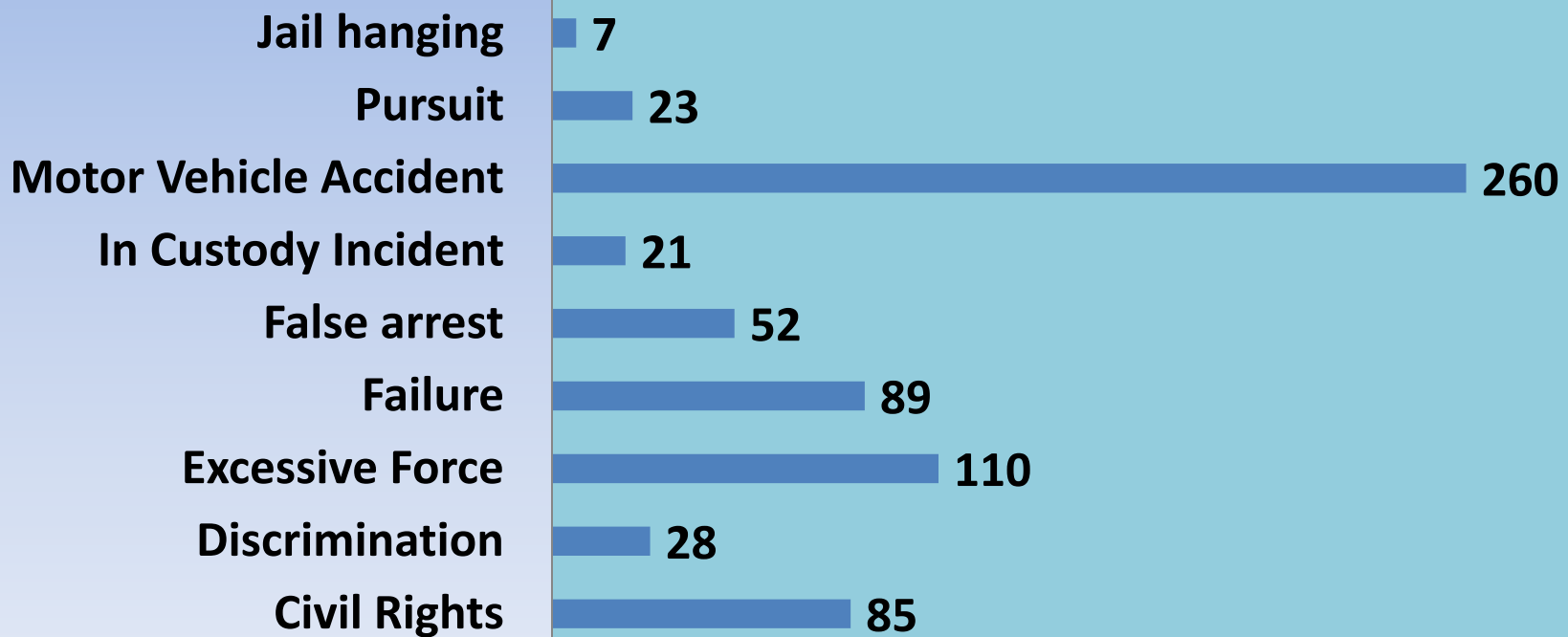


MMIA LAW ENFORCEMENT LIABILITY & INJURY DATA

Objective #1

MMIA Members Liability Claim Experience

**Leading Causes of Law Enforcement Liability
Claims FY 1999 - 2008**



MMIA LAW ENFORCEMENT LIABILITY & INJURY DATA

- Law Enforcement Liability Claims
 - Excessive Force - \$1,498,554
 - Civil Rights – internal & external \$4,424,543
 - Motor Vehicle Accidents \$1,764,025
 - Failure/false arrest \$2,704,876
 - Discrimination - \$752,379
- Law enforcement accounts for 10% of MMIA liability claims and 25% of incurred liability dollar costs



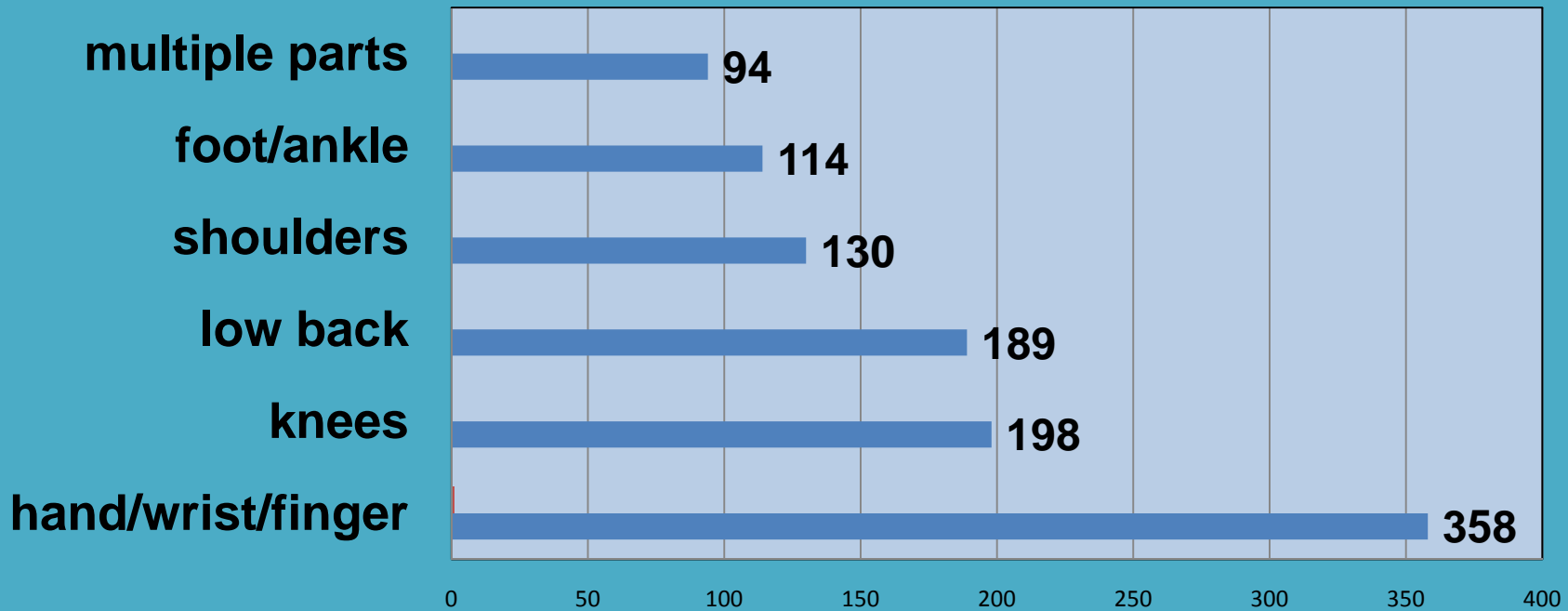
MMIA LAW ENFORCEMENT LIABILITY & INJURY DATA

- Liability Law Enforcement Claim Causes
 - Poor public relations
 - MVAs & accountability for safe vehicle operations
 - Policy & Training Issues
 - Ineffective span of control and poor employee accountability to follow policies and training
 - Internal discrimination & civil rights issues
 - Public civil rights/discrimination issues



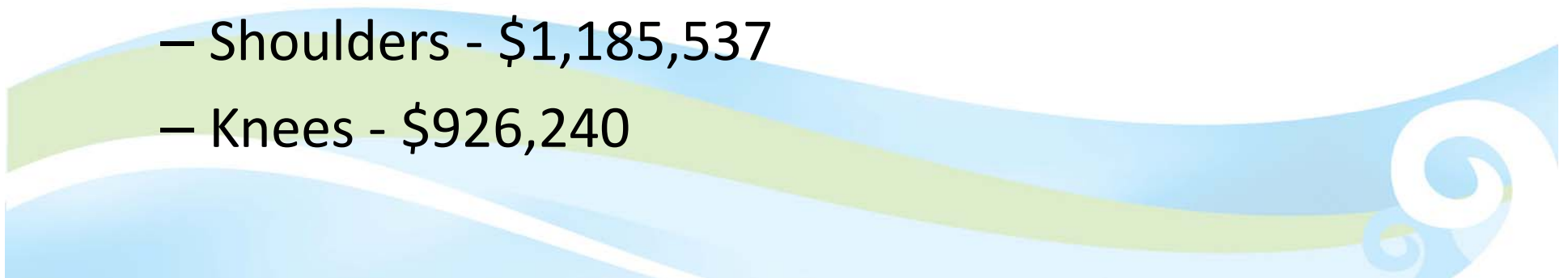
MMIA LAW ENFORCEMENT LIABILITY & INJURY DATA

**Leading Body Parts Injured - Law Enforcement
FY 2003 - 2008**



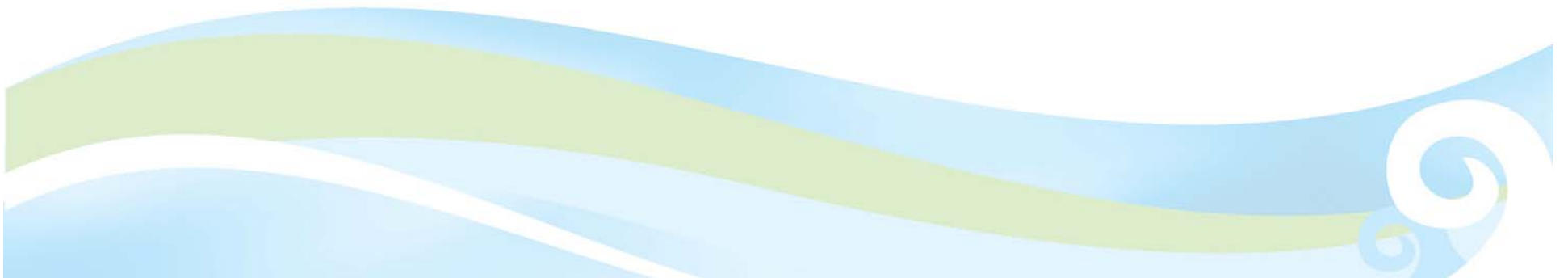
MMIA LAW ENFORCEMENT LIABILITY & INJURY DATA

- Law enforcement injury claims
 - Low back, knees, shoulders, hands
- Costs
 - Hands - \$55,101
 - Multiple body parts - \$411,246
 - **Low back - \$1,428,250 – 55-60% of whole pool back injuries come from law enforcement**
 - Shoulders - \$1,185,537
 - Knees - \$926,240



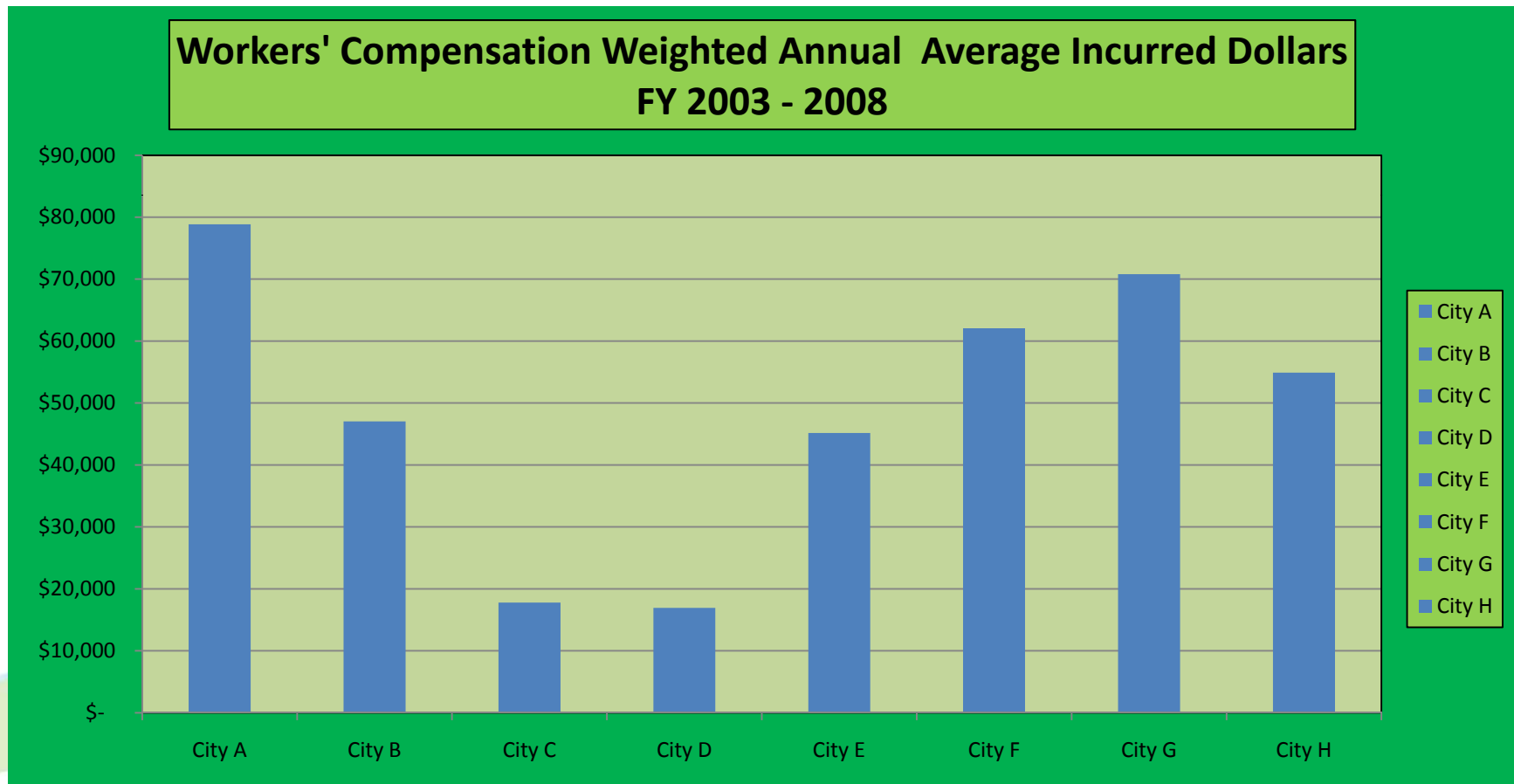
MMIA LAW ENFORCEMENT LIABILITY & INJURY DATA

- Injury Causes
 - Arrest/fight – criminal take down #1
 - Foot pursuit
 - Slip/fall (50% on ice/winter conditions)
 - Motor vehicle crash (MVA)
 - Training & physical education



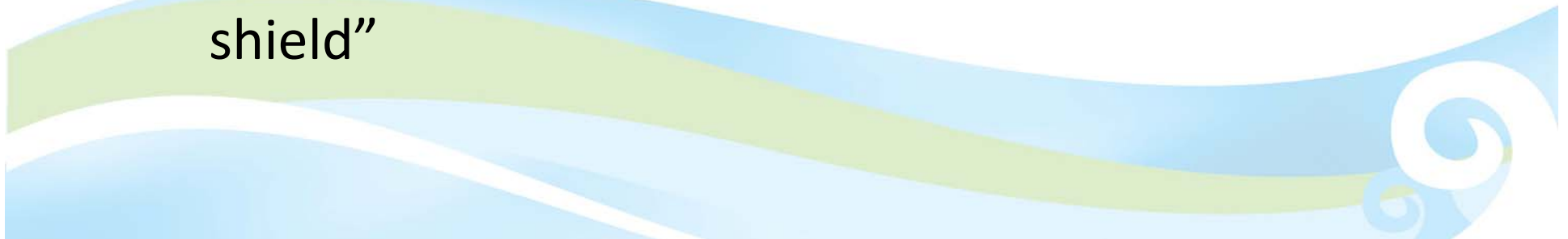
MMIA LAW ENFORCEMENT LIABILITY & INJURY DATA

MMIA Members have a wide range of injury claim experience



MMIA LAW ENFORCEMENT LIABILITY & INJURY DATA

- Why the variation in injury claim experience?
- Root causes
 - Large span of management control leading to poor employee accountability
 - Lack of or poor vehicle operation policies
 - Acceptance of higher risk work practices
 - Management fatalism – hiding behind the “blue shield”



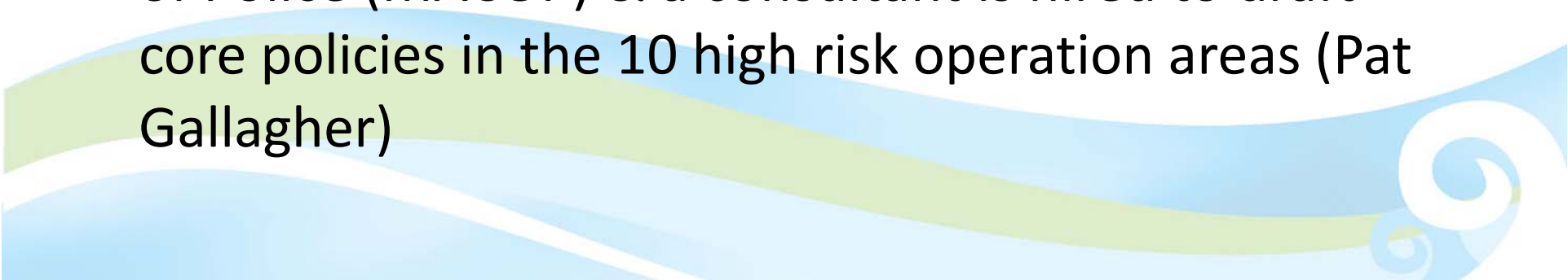
MMIA LAW ENFORCEMENT LIABILITY & INJURY DATA

Montana's risk culture & high injury rates 6.3 vs. 4.2 nationally...



MMIA LAW ENFORCEMENT

DEVELOPMENT OF MODEL POLICIES

- Policy variations among larger departments lead to defense attorneys using one against the other
 - Small agencies have no policy, have old outdated policy or limited policies
 - MACo & MMIA were having a hard time winning claim cases
 - MACo & MMIA approach the Montana Assoc. Chiefs of Police (MACOP) & a consultant is hired to draft core policies in the 10 high risk operation areas (Pat Gallagher)
- 

MMIA LAW ENFORCEMENT

DEVELOPMENT OF MODEL POLICIES

- This group adds attorneys, insurance experts and forms a collaborative effort with law enforcement officials to hammer out 10 core policies & the consultant is dropped within 6 months
 - Over time this process has expanded to new versions and 16 core policies
 - Policies are written as guidelines to be incorporated into local agency policy – key language idea
- This was started in 1999 and is on going

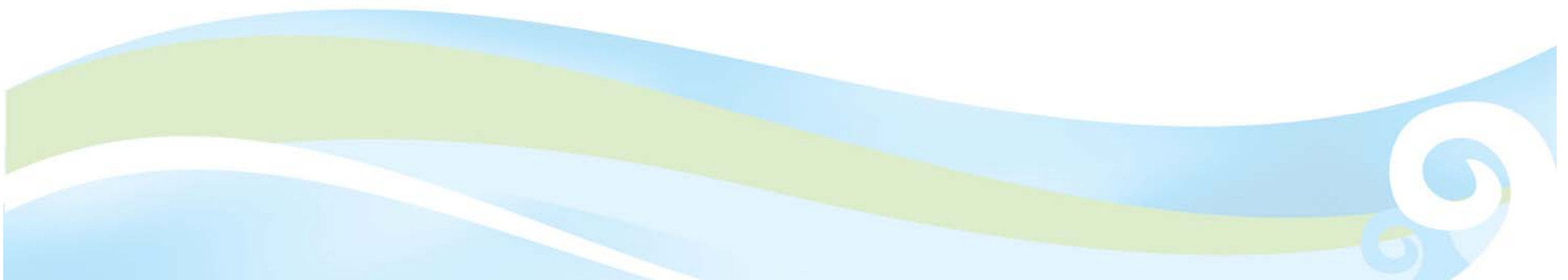
MMIA LAW ENFORCEMENT THEORY & PROGRAM IMPLEMENTATION

Objective #2

- Theory & implementation of MLEA model policies for law enforcement agencies
 - Strong in-state collaborative effort incorporates local knowledge and case law
 - Policy development led to the recognized need to train to the policies and help local agencies incorporate model policy language into local policy
- Staff additions to MMIA risk management
 - Risk Management Specialist, MLEA trainer
 - Member Service Representative/Training Coordinator

MMIA LAW ENFORCEMENT DEVELOPMENT OF BEHAVIOR-BASED SAFETY AUDIT TOOLS

- Rising workers' compensation claim experience in the early 2000s – MMIA
- Private sector consultation – merit of behavior-based safety auditing in private industry
- Search for public sector tools - unsuccessful
- MMIA writes our own based on claims data



MMIA LAW ENFORCEMENT

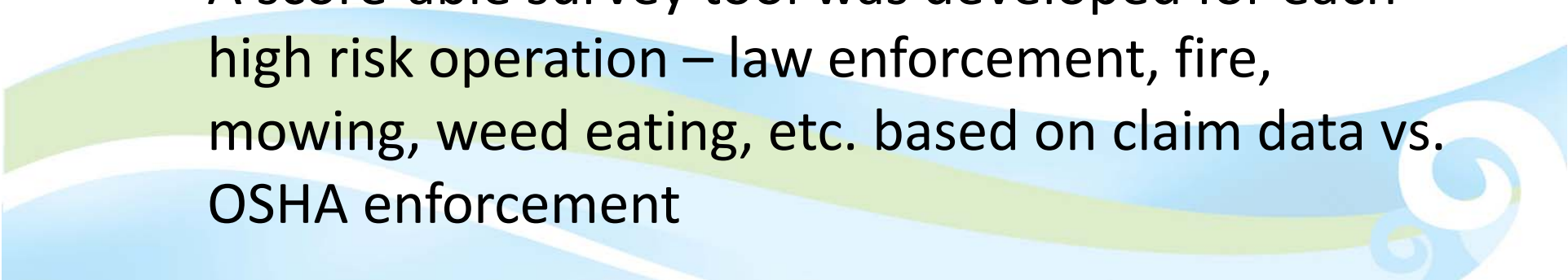
DEVELOPMENT OF MODEL POLICIES

- The ongoing problem of law enforcement injury and liability claim experience
- MMIA partners with the State, & MACo to hire a full-time Montana Law Enforcement Academy instructor – Jerry Williams
 - Retired officer to recruits & officers – huge gain in credibility & acceptance of our message....
 - Policy guidelines need comprehensive training and on going risk analysis



MMIA LAW ENFORCEMENT

THEORY & PROGRAM IMPLEMENTATION

- Theory, development and implementation of MMIA's behavior-based safety audit tools
 - Look at higher risk behavior, raise employee awareness of risks, benefits of safety and safer behaviors; replace risky..... with safety
 - Detailed claim analysis to determine higher risk areas of municipal operations & high risk behaviors
 - A score-able survey tool was developed for each high risk operation – law enforcement, fire, mowing, weed eating, etc. based on claim data vs. OSHA enforcement
- 

MMIA LAW ENFORCEMENT

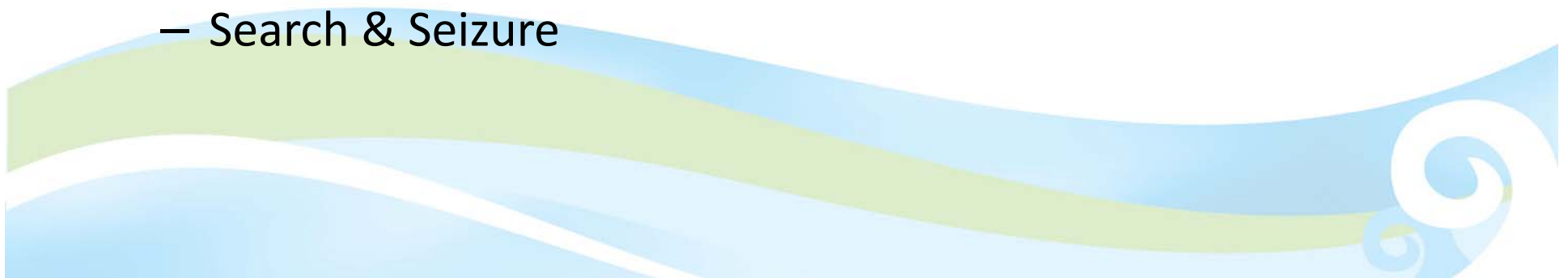
THEORY & PROGRAM IMPLEMENTATION

- Theory , development & implementation of the Risk Avoidance Program RAP
 - Further refinement of audit tools to key general areas of liability and workers' compensation best practices; these survey tools were used to do a base line departmental assessment
 - Basis for best practices – MMIA claims data, consultation with key staff and MMIA member experts
 - Used in concert with model policies for law enforcement with police departments

MMIA LAW ENFORCEMENT MODEL POLICIES, RAP, & AUDIT TOOLS

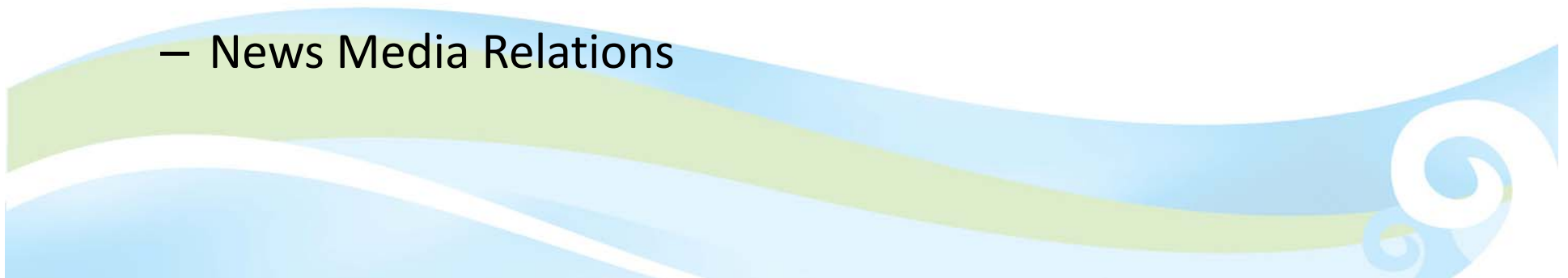
Objective #3

- MLEA Model Policies
 - Emergency Vehicle Operation & Pursuit Driving
 - Use of Force, General Arrest & Custody
 - Juvenile Arrest & Custody
 - Transporting Suspects in Custody
 - Partner Family Member Assault
 - Employee involved PFMA
 - Search & Seizure



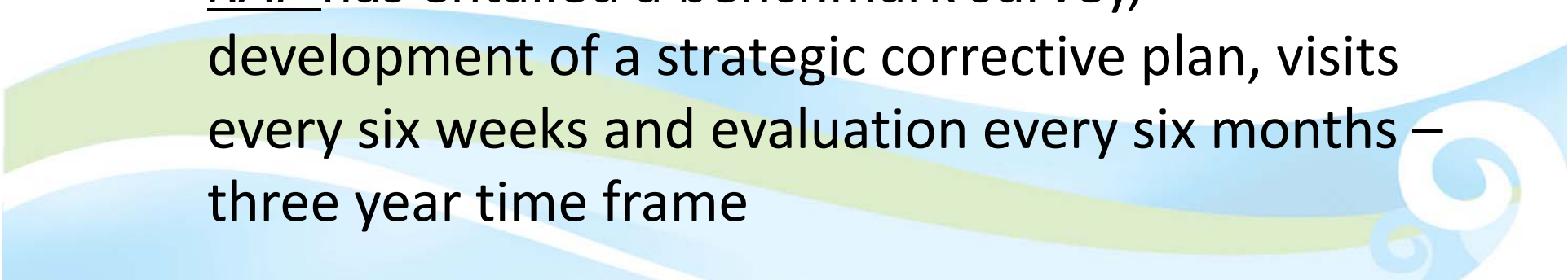
MMIA LAW ENFORCEMENT MODEL POLICIES, RAP, & AUDIT TOOLS

- Model Polices Continued....
 - Criminal Justice Information & Dissemination
 - Accommodating Persons with Disabilities
 - Electronic Control Devices
 - Biased Based Law Enforcement
 - Complaints & Internal Investigations
 - Special Tactical Situations
 - Intoxicated Persons
 - News Media Relations




MMIA LAW ENFORCEMENT

MODEL POLICIES, RAP, & AUDIT TOOLS

- RAP & key elements of MMIA behavior-based safety audit tools
 - Audit tools modeled after private sector score-able audits that reduced workers' compensation claim experience by 70% over a 10 year period
 - Best pool members analyzed and their best practices for operations incorporated
 - RAP has entailed a benchmark survey, development of a strategic corrective plan, visits every six weeks and evaluation every six months – three year time frame
- 

MMIA LAW ENFORCEMENT

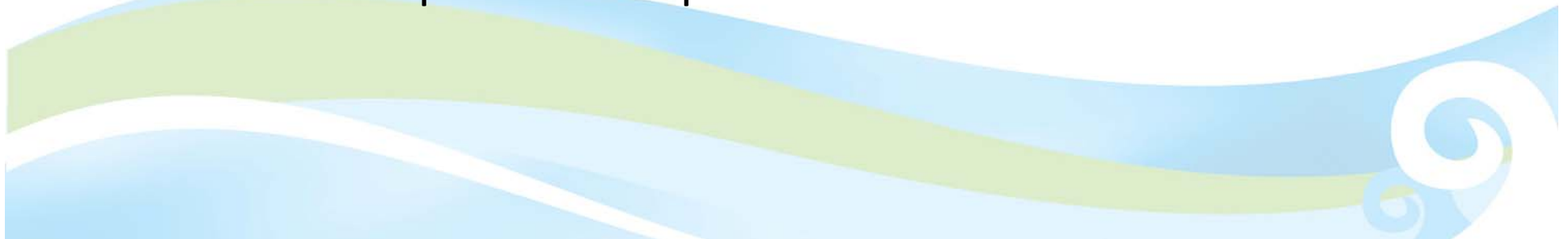
MODEL POLICIES, RAP, & AUDIT TOOLS

- Strategies for raising awareness of risks and getting to greater accountability for safety
 - Voluntary – members must want to do it
 - Use of actual member claims type & costs
 - JHA with members piloting RAP
 - Scenario based training – combines real claim data
 - Promote two way communication and culture of caring & practice what you preach!
 - Development of safety SOGs/policies, training to policy and accountability to follow training
- 

MMIA LAW ENFORCEMENT TOP MANAGEMENT & APPLICATION

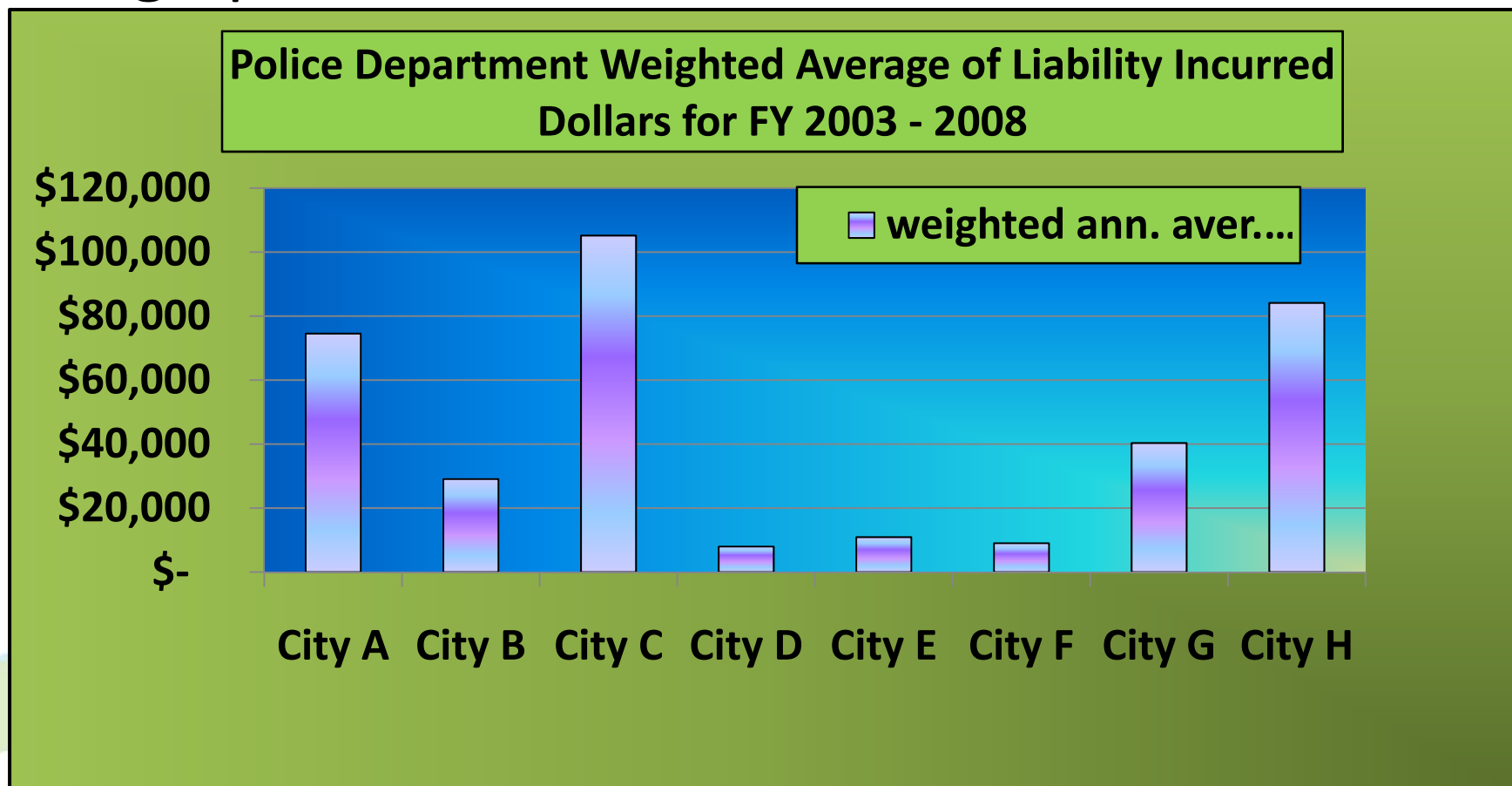
Objective #4

- Top Management buy-in
 - Analyze data and do savings analysis by swapping risk/high MOD Factors for safety and less claim experience
 - It works to do municipality to municipality comparisons & department to department
 - With the member we are working with & our best municipalities & departments.....

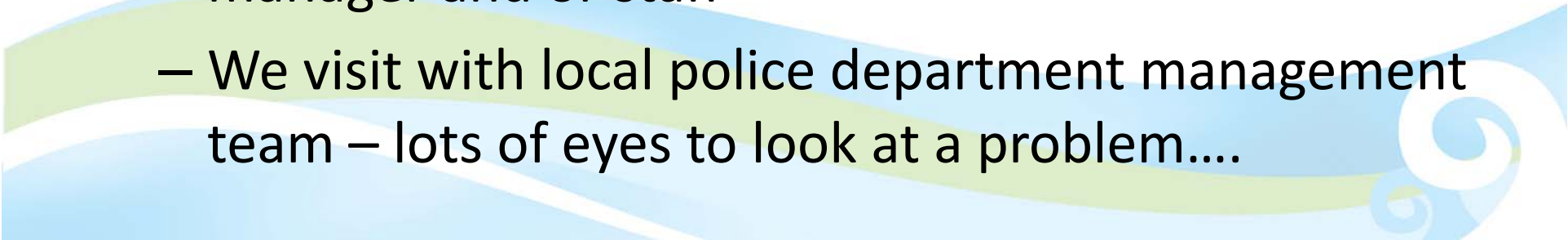


MMIA LAW ENFORCEMENT TOP MANAGEMENT & APPLICATION

- A graph like this can do wonders....

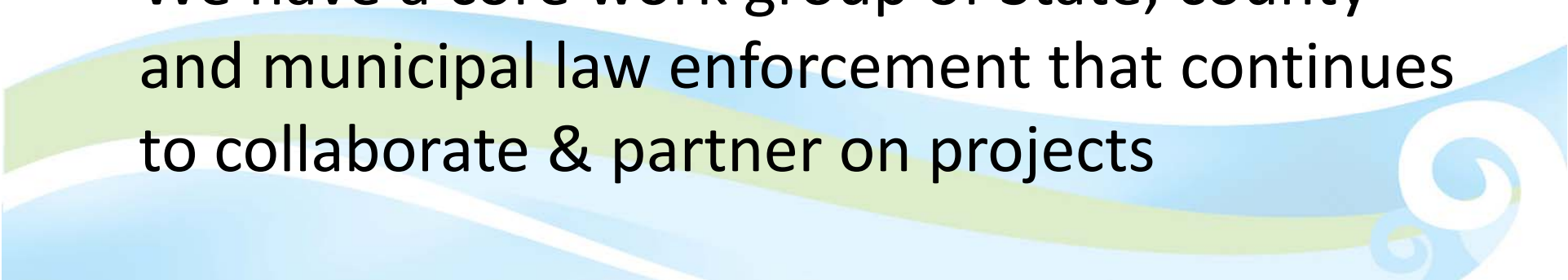


MMIA LAW ENFORCEMENT TOP MANAGEMENT & APPLICATION

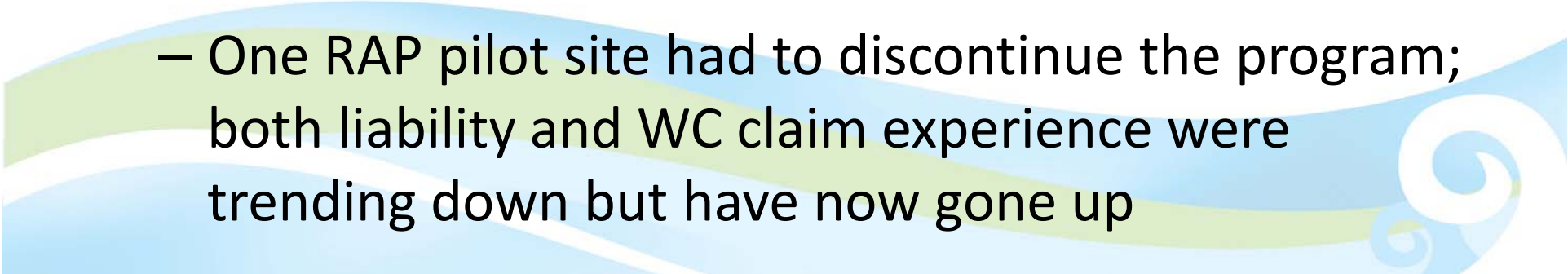
- Team approach with RAP
 - Team of MMIA staff visits with key department players, HR, risk management, customer service
 - With law enforcement, Jerry Williams, retired police officer and MLEA risk management instructor takes the lead in concert with MMIA risk management staff, workers' compensation manager and or staff
 - We visit with local police department management team – lots of eyes to look at a problem....
- 

MMIA LAW ENFORCEMENT RESULTS & NEXT STEPS

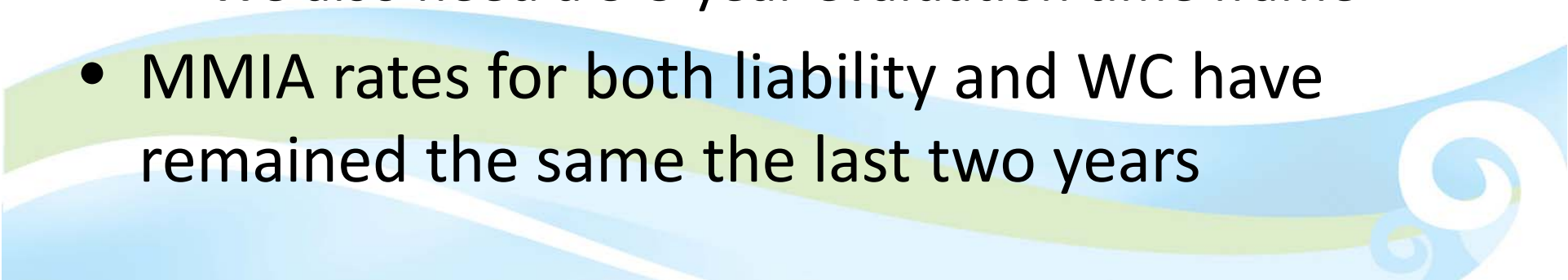
Objective #5

- We are on the third edition of the model policies
 - We have policy consistency among larger departments
 - We have better, more defensible policy among smaller departments
 - We have a core work group of State, county and municipal law enforcement that continues to collaborate & partner on projects
- 

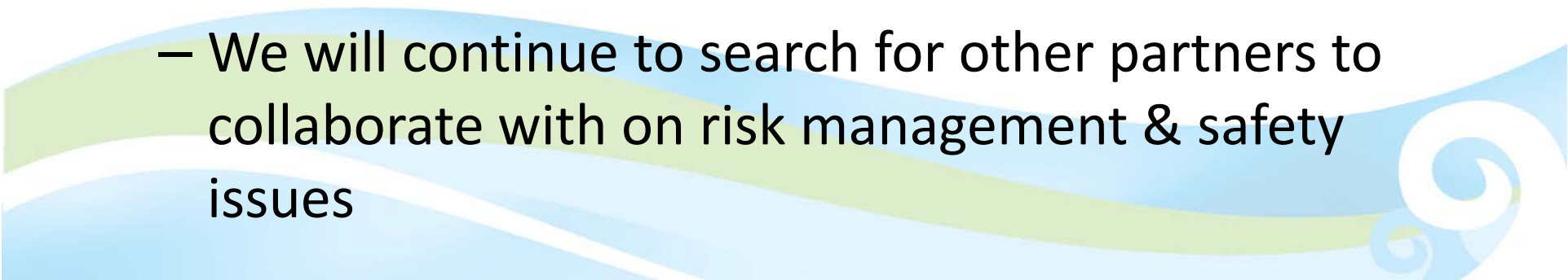
MMIA LAW ENFORCEMENT RESULTS & NEXT STEPS

- Program Results to date
 - At RAP pilot programs, 17.1% & 30.3% reductions in WC claim experience so far
 - Enhanced law enforcement training on Best Practices/Tactics for the Mentally Ill
 - Our PVOC course is expanding
 - New vehicle operation policies with accountability have reduced law enforcement MVAs
 - One RAP pilot site had to discontinue the program; both liability and WC claim experience were trending down but have now gone up
- 

MMIA LAW ENFORCEMENT RESULTS & NEXT STEPS

- Liability claim experience trended down at all our RAP pilot sites during the first 12 months of the program, but has trended up in the last period
 - We are looking at this (this may be effects of recent economic conditions)
 - We also need a 3-5 year evaluation time frame
 - MMIA rates for both liability and WC have remained the same the last two years
- 

MMIA LAW ENFORCEMENT RESULTS & NEXT STEPS

- Next Steps:
 - We will continue to evaluate the RAP program and claims data for an additional 18 months
 - MMIA will continue the strong collaborative effort with law enforcement groups and agencies
 - Ground work is being done to add additional model policies in problem claim areas
 - We will continue to search for other partners to collaborate with on risk management & safety issues
- 

THANK YOU FOR COMING!!

QUESTIONS??

