



Mental Injury Among Justice Workers

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The office of the National Union of Public and General Employees is on the traditional and unceded territory of the Algonquin peoples and is now home to many diverse First Nations, Inuit, and Métis peoples.

We recognize the crimes that have been committed and the harm that has been done and dedicate ourselves as a union to moving forward in partnership with Indigenous communities in a spirit of reconciliation and striving for justice.

Bert Blundon, President

Jason MacLean, Secretary-Treasurer



Introduction

This paper examines the issue of mental injury among justice workers in Canada. It will define who justice workers are, what mental injury is, review what laws are in place to protect these workers, and what can be done to improve these laws.

Canadian justice workers are regularly exposed to violence and traumatic events, both directly and indirectly, as a normal function of their work. There is growing evidence that the ongoing exposure to such events contributes to clinically significant symptoms of mental health disorders. And there is broad international and Canadian evidence that these workers have substantially more difficulties with mental injuries than the general population.

Who Are Justice Workers

In Canada, the research on mental disorder symptoms traditionally pertains to public safety personnel (PSP), which refers specifically to correctional officers (security and non-security roles), call centre operators or dispatchers, firefighters, paramedics (ambulance services), and police officers.

On a regular basis, these workers are exposed to many different types of traumatic and dangerous events. Exposure can be through personal engagement with such an event, or by witnessing it directly or indirectly. Because these are considered inherent or normal conditions of the PSP workers' employment, their rights to occupational health and safety (OHS) are limited.

Under normal circumstances, provincial OHS statutes stipulate that workers may refuse to work, or to do particular work, where they have reason to believe that such work is likely to endanger themselves or another worker. This includes the right to refuse working where there is the threat or instance of workplace violence. However, these rights do not normally apply to workers for whom danger is inherent in their work, or in their normal conditions of employment. Included in this category are workers in any place of secure custody, or temporary detention for young offenders, as well as in group homes, or other facilities for persons with behavioural or emotional problems.

Because dangerous circumstances are considered inherent in the worker's job, or normal conditions of the worker's employment under the provincial OHS statutes, these workers do not have the right to refuse work that they believe is unsafe to themselves or another worker. Since they are exposed to many different and recurring dangerous and traumatic events as a normal part of their work, some recent peer-reviewed studies reveal that these workers experience very high frequencies of diagnosed mental disorders.

But it's not just these PSP workers who are showing symptoms of mental injury. To get a better picture of the breadth of mental injury in Canada, we need to consider other workers not included in the official definition of public safety officers, yet who share similar responsibilities, and have similar experiences of mental disorders. A fuller, richer explanation of mental injury requires a better understanding of 2 categories of workers:

law enforcement officers facing similar occupational dangers and stressors;
other workers who may not directly face the same dangers, or who may not directly witness traumatic events, but who may be indirectly exposed to those dangers or events.

By examining the work and the experience of mental injury in these 2 categories of workers, we see the need to expand the official definition of public safety workers to include them.

In the first group are workers not included in the official definition of PSP, but who nevertheless face many of the same risks in their occupations as those who work in justice, public safety, or law enforcement:

- probation officers,
- sheriffs,
- highway safety officers, and
- conservation officers.

These workers have responsibilities that are directly comparable to those of police and corrections officers, and like their PSP counterparts, these workers typically experience dangerous and traumatic events as a normal part of their work.

In the other group excluded from the official definition of PSP are workers who, as a result of their work, are exposed to traumatic events, and who experience symptoms of mental injury. These workers are not necessarily directly experiencing or witnessing trauma. But they are indirectly exposed to, and deeply affected by, what is called *secondary trauma*, a term used to describe the indirect exposure that's second-hand in nature.¹ This group includes, but is not necessarily limited to:

- RCMP public service employees who transcribe hundreds of hours of victim statements describing, for example, horrific child sexual abuse;
- institutional and community parole officers who document detailed histories of violent offenders; and
- correctional program officers who work in the assessment and treatment of sex offenders; and
- other workers in Canada's public safety and justice systems.

New research shows that a large proportion of these employees suffer an alarming rate of occupational stress injuries, including PTSD. This new evidence gives us a better and truer idea of the breadth of mental injury in Canada, of the range of workers and job types involved, and occurrences of mental injury. The research shows that the definition of PSP is too narrow and needs to be expanded to include others who may be indirectly experiencing or witnessing trauma.

In other words, we need to look beyond those classified as PSP, because there are many other workers (in groups 1 and 2 mentioned above) doing similar work, and who experience the same or similar types of mental injuries. Then, when we've examined the evidence for these latter, we will see that the definition needs to include them—for in fact, they are PSP by the work they do. As it is now, the narrow classification includes just a few types of work and workers, and it does not represent the true picture of public safety work and the consequent mental injuries experienced by workers in Canada.

Because all these workers work under similar conditions of law enforcement, or because they work under the rubric of public safety occupations and justice systems, in this paper we will refer to all these workers as Justice Workers (JW).

The Data: What Is Mental Injury? — What Kind of Mental Injury?

Mental Disorder Symptoms among Public Safety Personnel in Canada

There is broad international evidence² published in highly reputable peer-reviewed literature that public safety personnel (PSP), defined as correctional workers, call centre operators or dispatchers, firefighters, paramedics, and police officers (municipal, provincial, and RCMP), may have substantially more difficulties with mental disorders than the general population. Canadian PSP have also reported substantial difficulties with clinically significant symptoms of one or more mental disorders. New research published in the *Canadian Journal of Psychiatry* (2018) and the *Canadian Journal of Behavioural Science* (2019) reviews this evidence, adds to this body of research, and reveals very troubling findings among PSP in Canada.

The 2019 study by the *Canadian Journal of Behavioural Science* offers clear empirical evidence that different traumatic events are frequently experienced by Canadian PSP. The most commonly reported traumatic event types across the PSP categories include the following:³

- sudden violent death,
- sudden accidental death,
- serious transportation accidents,
- threatened or actual physical assaults,
- fires and explosions,
- assault with a weapon,
- serious accident at work, home, or during a recreational activity

With these findings, one of the noteworthy conclusions of the study is that “despite the frequent focus on PTSD,” exposure to many different types of potentially traumatic events “can be associated with many different mental disorders.”⁴

According to the authors, what this means is that we have to stop focusing just on PTSD: “The results support the growing evidence that traumatic exposures can be significantly associated with several mental disorders,” the study says, “including PTSD, but also depression, generalised anxiety disorder, panic disorder, and social anxiety disorder.” And all this has clear public policy implications: “the results raise important questions about focusing resources exclusively on PTSD for public safety personnel.”⁵

The 2018 study by the *Canadian Journal of Psychiatry* found that PSP are exposed to potentially traumatic events as a function of their work. And such exposures contribute to the risk of developing clinically significant symptoms related to a number of mental disorders. This research also discovered significant differences between PSP categories: for example, for municipal or provincial police relative to Royal Canadian Mounted Police

(RCMP)—differences between categories that imply potential important differences in their experiences.

The 2018 findings are based on a self-reporting survey in English and French that was online and web-based. The survey was undertaken between September 2016 and January 2017. The researchers interviewed 5,813 participants (32.5% of whom were women), and the survey included well-established measures for screening mental disorder symptom levels. With that, the survey assessed current symptoms, and the participants were solicited from national PSP advocacy agencies and advocacy groups.⁶

The participants were grouped into 6 categories or sectors: call center operators or dispatchers, correctional workers, firefighters, municipal/provincial police, paramedics, and RCMP. According to the study, “substantial proportions of participants reported current symptoms consistent with 1 . . . or more . . . mental disorders based on the screening measures.”⁷ And furthermore, there were “significant differences across PSP categories with respect to proportions screening positive based on each measure.”⁸

The study noted that these workers are regularly exposed to potentially traumatic events as an expected part of their employment. This includes exposure to threatened or actual physical assaults, fires, and explosions. And such exposures “have been associated with increased risk for the development of mental disorders,” including the following:⁹

- post-traumatic stress disorder (PTSD),
- major depressive disorder (MDD),
- panic disorder (PD),
- generalized anxiety disorder (GAD), and
- social anxiety disorder (SAD), as well as
- (vulnerability to) alcohol use disorder (AUD).

In Canada, mental health disorders experienced by PSP that result from active duty have increasingly been relabeled by community members as “operational stress injuries,”¹⁰ a phrase originally coined for Canadian military experiencing mental disorders directly tied to their service.

PSP almost 4.5 Times More Likely Than General Population To Have Mental Injury

The results from the survey are disturbing: PSP are almost 4.5 times more likely than the general population (44.5% compared to 10.1%) to screen positive for clinically significant symptoms consistent with one or more mental disorders, including PTSD, major depressive disorder, generalized anxiety disorder, social anxiety disorder, panic disorder, and alcohol abuse.¹¹

Those who were less likely to report symptoms of a mental disorder were participants who reported being as follows:¹²

- younger, or with fewer years of service, (the most statistically significant difference being those between the ages of 19 to 29 and 40 to 49);
- married;
- more educated.

Statistically significant differences were identified across PSP categories, for example: correctional workers, paramedics, and RCMP were “generally significantly more likely to experience all mental disorders” except AUD when compared with municipal or provincial police officers.¹³

And the study also noticed some gender differences: Women were more likely than men to report mental disorder symptoms, “but the difference was statistically significant only within the categories of municipal/provincial police and firefighters.”¹⁴ Furthermore, the results “align with evidence that women in the general population are more likely than men to report mental disorders which may correlate with factors including workplace stressors.”¹⁵

Furthermore, there was no statistically significant difference observed between civilian employees working for police with sworn officers and other PSPs.¹⁶ The only statistically significant difference was that civilian employees of police services were more likely than sworn officers to screen positive for an anxiety disorder, but “were otherwise quite comparable,” and a “lack of general differences” was reported.¹⁷ Accordingly, the report concluded that, for civilians, “direct trauma exposure appears to be only one factor associated with PSP mental health, and researchers should explore how best to provide specific civilian employee supports.”¹⁸

Corrections Officers Report the Highest Rates of Mental Injury

So the most significant finding of the 2018 study is that PSP personnel screened positive for symptoms of mental injury at a rate almost 4.5 times higher than the general population.¹⁹

But if we examine each of the 6 sectors separately, among all PSP participants surveyed, those with the highest-reported symptoms of mental injury are correctional workers in security and non-security roles.²⁰ More than one-half (54.6%) of these correctional workers report symptoms consistent with at least one mental disorder, including the following:²¹

- PTSD,
- major depressive disorder,
- generalized anxiety disorder,
- social anxiety disorder,
- panic disorder,
- mood disorder, and
- alcohol abuse.

In other words, corrections workers are almost 5.5 times more likely than the general population (54.6% compared to 10.1%) to screen positive for clinically significant symptoms consistent with one or more mental disorder.²² This number could actually be much higher.

The survey was completed by more than 600 correctional workers across the country, who represented a variety of job titles, including correctional officers, parole officers, program officers, and administrative support. As reported in *Canadian Occupational Safety*, according to Rose Ricciardelli, one of the researchers for the study, if the survey were to look just at correctional officers (that is, excluding parole officers, program officers, and administrative support staff), the numbers would be “much higher.”²³ Ricciardelli is an Associate Scientific Director with the Canadian Institute for Public Safety Research and Treatment, specializing in the areas of community and institutional corrections, and the vulnerabilities, mental health, and well-being of prisoners. “The correctional officer occupation is hands-on all day, every day,” she said. While the trauma experienced by workers in administrative and other sectors is “significant and high,” within the correctional institutions, “it will be higher,” she says. “The stuff that’s dealt with on the day-to-day is much more challenging and the lack of resources in the institution, the strain that is placed on the officers, the expectations . . . [are] going to have an effect.”²⁴

According to Ricciardelli, one reason why mental injuries are so high among corrections workers is because they work in a confined environment, in the same place, dealing with the same issues, and the same people day after day, unlike first responders. And the issues they are dealing with are very dangerous. Correctional workers regularly witness and personally experience a wide variety of violent incidents at work, involving physical and verbal abuse:²⁵

- hitting, punching, spitting, and having feces thrown on them;
- receiving threats against themselves and their families.

In addition

- They respond to incidents where inmates are mutilated, severely stabbed, and bleeding profusely.
- There have even been cases where correctional officers were stabbed, held hostage, murdered, and sexually assaulted by inmates.²⁶

According to statistics from the Government of Alberta, 33.5% of all assaults in prisons and jails are committed against staff by inmates, and in a 20-year career, a correctional officer will be seriously assaulted at least twice.²⁷

It is the recurring exposure to such traumatic events that results in mental injuries. And the 2018 study adds to a growing body of research pointing to the fact that the rates of mental injury among corrections workers is steadily increasing.

A 1992 study published in *FORUM on Corrections Research* found 17% of the 122 Ontario correctional officers surveyed “experienced effects severe enough to be clinically diagnosed

as suffering from PTSD.” This was, according to the study, “significantly higher than the 1% level found in the general population, and is approaching the 20% level found in Vietnam veterans wounded in battle.”²⁸

In a 2003 survey of 271 corrections employees in Saskatchewan, B.L. Stadnyk found that 25.8% reported “symptom levels of PTSD suggesting a probable clinical diagnosis of the disorder.”²⁹

A 2011 survey authored by Neil Boyd of more than 200 correctional officers in British Columbia revealed that they are significantly more likely to experience violence on the job than workers in any other protective service in the province. According to the study, 80% indicated that these kinds of exposures were “somewhat” or “very stressful.”³⁰

Furthermore, the overwhelming majority of respondents (about 90%) said their jobs “have become more stressful over the past years.” And the most common reasons given for this increased stress include inmate-to-staff ratios, overcrowding, violence, and management, and workplace policies.³¹

According to a May 2016 story reported in the Globe and Mail, Lori MacDonald, then assistant deputy minister in the federal Department of Public Safety, told a House of Commons committee “that about 36 per cent of male correctional officers have identified as having post-traumatic stress disorder,” rates she described as “very high.”³² In comparison, the newspaper story explained that “between 1.1 [per cent] and 3.5 per cent of the general population of Canada has PTSD in any given year.” And “9 per cent of Canadian military personnel returning from Afghanistan are now collecting disability benefits after being diagnosed with the disorder.”³³

In May 2017, using data obtained through the Access to Information Act, a CBC Nova Scotia investigation revealed that, from 2011–2016, approximately 1 in 20 employees at federal penitentiaries has been diagnosed with PTSD or other stress injuries.³⁴ But the union representing federal correctional officers believes the real numbers are “significantly higher,” because, according to Jeff Wilkins, then Atlantic president of the Union of Canadian Correctional Officers, “people sometimes don’t report their condition and live alone in silence and suffer with it.”³⁵

Finally, in April 2019, a CBC Manitoba story reported that about 36% of correctional officers in Manitoba suffer from post-traumatic stress disorder, according to an internal Correctional Service Canada (CSC) report whose contents were revealed by the testimony of the Commissioner of the Correctional Service of Canada before a parliamentary committee. According to the story, another internal CSC report explained that in the fiscal year 2017/18, the number of assault-on-staff incidents was projected to be 32% higher than the previous fiscal year.³⁶

This steady increase in mental injury among corrections workers has prompted calls for enhanced treatment programs, supports and resources, as well as presumptive coverage for mental injuries (a point we will return to below). Labour unions have long demanded that provincial governments provide automatic coverage to correctional officers, or include

them with other workers who are covered by presumptive legislation. Currently, there are many jurisdictions without presumptive legislation, and there are others in which corrections officers are not covered by the legislation.

Other Justice Workers Not Defined as PSP: Federal Public Servants

So far, the focus of this paper has been mental injury suffered by workers who directly experience trauma, such as public safety personnel. To get a better understanding of mental injury, we need to broaden the scope of discussion and examine mental injury among other justice workers.

Contributing to this broader understanding is a report released June 20, 2017, by the Union of Solicitor General Employees (USGE), now known as the Union of Safety and Justice Employees (USJE), Entitled *Moving Forward: A Report on the Invisible Toll of Psychological Trauma on Federal Public Safety Workers*. The report presents the findings of an in-depth study into the experiences of federal public servants in 17 departments, agencies, and commissions within the public safety and justice ministries.³⁷ These employees perform various duties on behalf of the federal governmental entities that are responsible for justice, corrections, national security and safety for people living in Canada. This includes work as public servants within the RCMP, in Canada's federal prisons with the Correctional Service of Canada, in the Department of Justice, and in the Parole Board of Canada. Employees represented by USJE perform a vast number of different jobs in the public service, many of which involve difficult and stressful subject matters.³⁸

These employees work as parole officers, teachers, correctional program officers, librarians, case management assistants, mechanics, food service workers, as well as RCMP detachment assistants, investigators in crime units, federal court transcribers, clerical or administrative staff for departments, among many other jobs.³⁹

Qualitative and quantitative data were gathered from a national online survey of 36 questions and in-depth interviews with members of USJE. The respondents were

- predominantly female,
- RCMP public service employees who transcribe hundreds of hours of victim statements, for example, describing horrific child sexual abuse,
- institutional and community parole officers who document detailed histories of violent offenders (employees of the Parole Board of Canada), and
- correctional program officers who work in the assessment and treatment of sex offenders (teachers and others working in federal prisons).

The study found that these public servants who are not directly experiencing or witnessing trauma are nevertheless indirectly exposed to and deeply affected by "secondary trauma," which is "a term used to describe indirect exposure that is second hand in nature."⁴⁰

Based on the survey, the report shows that a majority of public safety employees who responded are negatively affected by the violent nature of criminal histories, victim

statements, graphic evidence, and related materials they manage in high-stress work environments.

Interviewees and survey respondents reported experiencing some or all of the 7 symptoms of secondary trauma including⁴¹

1. recollection, dreams, and sudden re-experiencing of the event
2. avoidance of thoughts, feelings, or activities
3. detachment, or estrangement, from others and activities
4. emotional difficulties or outbursts
5. concentration problems
6. physiological reaction (difficulty sleeping) and
7. hypervigilance

“The toll from constant exposure to trauma on front-line workers such as police, paramedics and firefighters is widely recognized,” said USJE National President Stan Stapleton. “Yet public safety and justice workers working behind the scenes are disproportionately affected by exposure to second-hand trauma. These workers receive almost no training or preparation, few protections, and little recognition for their injuries.”⁴²

The report states the following:⁴³

- Almost 80% of the public safety workers surveyed said they had experienced at least some personal impact from viewing traumatic materials such as written files, images, audio files, and videos as part of their job.
- 69.8% of respondents who work for the RCMP said that they experienced at least some personal impact.
- 82.9% of Correctional Service Canada employees (CSC)—workers in Canada’s federal prison system—who responded to the survey said that they experienced some personal impact.

Furthermore, 80.2% of all survey respondents indicated that they experienced at least one of the following symptoms as a result of working with traumatic material:⁴⁴

- nightmares
- depression
- increased consumption of alcohol and drugs
- unhealthy eating habits and a decrease in physical health
- relationship problems
- insomnia

And insomnia was widely reported, with 69.8% of survey respondents saying that they experienced insomnia as a result of working with traumatic material and situations.

Comments gathered from the national survey, along with interview responses, showed that many of these workers deal with other symptoms, such as the following:⁴⁵

- hypervigilance,
- mistrust,
- desensitization,
- physical illness
- general fear, grief, and anxiety.

As we will discuss shortly, in spite of all this clear empirical evidence, these justice workers do not all receive the same treatment under the law as their PSP colleagues.

Other Justice Workers Not Defined as PSP: Probation Officers, Sheriffs, Highway Safety Officers, Conservation Officers

So far, we have examined the research on 2 groups of justice workers: public safety personnel who are directly exposed to traumatic events, and federal public servants who are indirectly exposed to traumatic events. In both cases, we have reviewed the empirical evidence that such exposures contribute to mental injuries at rates much greater than those experienced by the general population.

To get a better picture of mental injury in Canada, we need to now consider those workers who are also excluded from the official definition of PSP, but who also face great dangers at work, and who are also directly exposed to traumatic events. In addition, for these workers there is considerable anecdotal evidence that such exposures contribute to mental injuries. In depth scientific research is needed to determine the extent of these injuries.

Though not included in the official definition of PSP, these workers nevertheless face many of the same risks in their occupations as those who work in justice, public safety, or law enforcement, for example, probation officers, sheriffs, highway safety officers, and conservation officers. These workers have responsibilities that are directly comparable to those of police and corrections officers, as they deal with offenders and criminal justice issues as a condition of their employment. Many of them are also required to carry firearms as part of their employment.

Like their PSP counterparts, these workers typically experience recurring direct exposure to dangerous and traumatic events as a normal part of their jobs. These workers receive threats, or are physically assaulted, and they are exposed to other events comparable to those experienced by paramedics and firefighters. For example, on our highways and roads, it is the highway safety officers who are often the first on the scene, where they are exposed to the same “traumatic event types,” or “critical incidents,” discussed in the

scientific literature, such as “serious transportation accidents” and “sudden accidental death.”⁴⁶

Likewise, due to the nature of their work, probation officers often face traumatic situations and are more likely to suffer PTSD.⁴⁷ Offenders who have been sentenced to probation must regularly report to their probation officer, who supervises the offender, providing help and direction. Probation officers evaluate offenders from the beginning of the probation period, and they evaluate the offender’s situation on an ongoing basis. If offenders are at high risk of re-offending, they must meet with their officer more often and take additional steps to increase their success of reintegrating and to reduce their chances of returning to criminal activity. Because all these different types of justice workers witness trauma, or experience it personally, they also suffer from mental injury.

Thus, to accurately portray mental injury among workers in Canada, we need to expand the official definition of PSP to include other law enforcement workers who face similar occupational dangers and stressors. As we will see, like their colleagues in the federal public service, the problem is that these justice workers do not all receive the same treatment under the law as their PSP colleagues.

Existing Policy Framework: Presumptive Coverage

Despite the empirical evidence that exposure to trauma can be associated with many different kinds of mental disorders, justice workers are not well served by provincial laws, and this is in spite of the progress made in recent years. This poor service can be explained in part by one of the points raised in the 2019 study in the *Canadian Journal of Behavioural Science*, as discussed earlier: resources are focused almost exclusively on PTSD, and almost exclusively for public safety personnel.

This is not to suggest that we should lament the attention being put on PTSD. One of the victories of the Canadian labour movement has been our successful efforts in pressuring provincial governments to adopt presumptive legislation for post-traumatic stress disorder (PTSD) and occupational stress, as well as laws that outline an employer's responsibility in developing an approach to preventing those types of injuries. Presumptive legislation is supposed to allow for faster access to Workers' Compensation benefits, resources, and timely treatment.

Despite this success, there are flaws in the existing policy framework, for 2 main reasons: 1. the various pan-Canadian examples of presumptive legislation tend to focus exclusively on PTSD while neglecting other mental injuries; 2. and they exclude lots of workers who are not defined as PSP.

On the first point, it is insufficient to focus on PTSD, because it is not the only mental injury that needs attention and inclusion in legislation. As noted in section II.1 above, workers screen positive for many different mental disorders, such as depression, panic attacks, anxiety, and vulnerability to substance abuse. These types of mental injury deserve the same presumption as PTSD. And on the second point, the various provincial laws leave out and neglect many workers who are exposed to the same kinds of traumatic events as PSP.

And the reason for these flaws is that provincial and territorial laws and coverage are inconsistent. There is no universal pan-Canadian legal framework, but a hodgepodge of laws under which workers make claims under their respective Workers' Compensation bodies. This patchwork of pan-Canadian legislation is a serious flaw in the way workers are treated for their psychological injuries.

What Is Presumptive Coverage?

Presumptive coverage means that if a worker is diagnosed by a medical professional as having an injury, unless the contrary is proven, that injury is presumed to be the result of an event at the workplace, thereby removing the onus on the worker to prove that it was the result of some specific work-related event.

Once the injury is diagnosed, the claims process to be eligible for Workers' Compensation benefits will be expedited, without the need to prove a causal link between the injury and a workplace event. In other words, the worker will be able to get assistance without providing proof that the injury was related to their work.

When presumptive coverage applies to mental injury, it means that the diagnosed mental or psychological injuries are assumed to be the result of workplace trauma. Under such legislation, once a worker is diagnosed by either a psychiatrist or a psychologist as having a mental disorder covered by the legislation (such as PTSD), unless the contrary is proven, the worker is given the benefit of the doubt: the mental injury is presumed to stem from, arise out of, or to have occurred during the course of an event at work. This means that when workers who experience job-related trauma are diagnosed with a mental disorder, they will be able to get assistance without providing proof that the injury was related to their work.

Some Problems with Existing Presumptive Coverage: A Canadian Patchwork

Because Workers' Compensation legislation falls under provincial jurisdiction (even for workers like correctional officers working at federal institutions), the laws pertaining to presumptive coverage (that is, presumptive legislation) vary across the country. This variation falls into 4 broad categories:

- a) Where Presumptive Legislation Exists for Mental Injury
 - 9 provinces have presumptive legislation for some kind of mental injury.
 - 1 province (Quebec) and all 3 territories do not.
- b) What Mental Injuries Are Included in the Legislation?
 - 2 provinces (SK and PEI) have presumptive coverage for any diagnosis of psychological injury incurred through work.
 - 7 provinces (BC, AB, MB, ON, NS, NB, NL) have presumptive coverage only for a diagnosis of PTSD.
- c) What Workers Are Covered by That Legislation?—by Province
 - In 4 provinces (SK, MB, PEI, NL), all workers in any occupation are covered.
 - In 1 province (NB), first responders exclusively (firefighters, police, and paramedics) are covered.
 - In 3 provinces (AB, ON, NS), first responders and emergency-response dispatchers are covered; and in ON, ambulance service managers are covered.
 - In 3 provinces (BC, AB, NS), first responders, sheriffs and peace officers are covered.
 - In 4 provinces (BC, AB, ON, NS), correctional workers are covered.
 - In 1 province (NS), continuing care assistants are covered.
 - In 2 provinces (ON, NS), nurses are covered.

- In 1 province (ON), First Nations emergency response teams are covered.

d) Does the Legislation Rule Out Chronic Mental Injury?

Another problem with existing PTSD legislation concerns the inconsistent language regarding chronic mental injury, or gradual onset psychological injury and stress.

There's no clear consistency across Canada about whether the presumption covers psychological injury caused by one discrete, or single, traumatic work-related event, or by a series of events developed gradually and cumulatively over time in response to multiple exposures to workplace stressors, whether traumatic or nontraumatic.

In some provinces, like British Columbia, Alberta, Saskatchewan, Ontario, Prince Edward Island, and Newfoundland and Labrador, the legislation specifically says if the worker is exposed to an acute traumatic "event," or multiple "events," during the course of employment, then the psychological injury shall be presumed, unless the contrary is proven, to be an injury that arose out of and occurred during the course of the worker's employment.⁴⁸ In other words, they cover both acute and gradual onset mental stress. But there are differences: For British Columbia, Alberta, and Ontario, there's coverage whether the triggering event is a traumatic, or a nontraumatic, but significant workplace stressor.⁴⁹ But in Saskatchewan, Prince Edward Island, and Newfoundland and Labrador, there's coverage only if the acute or gradual onset mental stress is triggered by trauma.⁵⁰

In Nova Scotia, the policy around chronic mental injury is somewhat complicated. Section 10 of the Nova Scotia *Workers' Compensation Act* says that workers are entitled to compensation for personal injury "by accident arising out of and in the course of employment."⁵¹ The definition of "accident" under Section 2 specifically excludes "stress, other than an acute reaction to a traumatic event."⁵² The Nova Scotia Workers' Compensation Board (WCB) Policy 1.3.9 implements the provisions of the act by laying out 4 criteria for mental stress to be covered. One of these stipulates there must be "one or more Traumatic Events,"⁵³ and more specifically, mental stress is covered if it develops as an "acute response to one or more" sudden events, such as witnessing a horrific accident, or being involved in an armed robbery or hostage-taking.⁵⁴ While acute reaction to a traumatic event normally happens in a single incident, Policy 1.3.9 acknowledges "some workers, over a period of time may be exposed to multiple traumatic events." Accordingly, "if the worker has an acute reaction to the most recent traumatic event, entitlement may be considered even if the worker may experience these traumatic events as part of the employment and was able to tolerate the past traumatic events. An example is a drugstore pharmacist after multiple robberies."⁵⁵

In contrast, in New Brunswick, the law rules out chronic mental stress that develops gradually and cumulatively over time. Section 7(1) of the New Brunswick *Workers' Compensation Act* says that workers are entitled to compensation for personal injury caused by an accident arising out of their employment. And in Section 1, the definition of "accident" excludes "mental stress or disablement caused by mental stress, other than as an acute reaction to a traumatic event."⁵⁶ As one observer notes, "mental stress is covered

only if it's caused by a discrete and traumatic work-related event, which rules out chronic mental stress that develops gradually and cumulatively over time as well as stress in response to continuous or multiple exposure to workplace stressors that do psychological harm but don't rise to the level of trauma."⁵⁷

In jurisdictions without any presumptive coverage, the failure to recognize chronic mental stress is potentially highly problematic, especially in light of some reports that provincial Workers' Compensation Boards routinely deny chronic mental stress cases.⁵⁸

Summary: the Patchwork of Mental Injury Legislation—a Serious Flaw

This hodgepodge of pan-Canadian legislation highlights a serious flaw in the way psychological injury is considered and categorized in Canada. Workers in Canada are not treated equally, and in some cases, their rights to occupational health and safety are not protected at all by the mess of inconsistencies.

In 2 provinces all workers are covered for all mental injuries. Yet in 4 other jurisdictions, there is no presumptive coverage at all. And in some provinces, not all workers are covered by the presumptive legislation that does exist.

In some provinces, all psychological injuries are covered, while in others only PTSD is mentioned in the legislation. Some provinces cover chronic mental injuries triggered only by trauma, while others cover chronic mental injury triggered by both traumatic and nontraumatic stressors. And some provinces rule out altogether any chronic mental stress that develops gradually and cumulatively over time.

Summary: Mental Injury and Presumptive Coverage in Canada

Saskatchewan, Prince Edward Island

In both Saskatchewan (SK) and Prince Edward Island (PEI), the presumptive coverage is for all workers, for any psychological injury incurred through work, not just PTSD, both acute and chronic, (but only if triggered by traumatic events). In 2017, Saskatchewan became the first jurisdiction in Canada to establish a presumption for all forms of psychological injury.⁵⁹ The following year, PEI became the second. This was the result of a private member's bill by the Opposition unanimously passed into law that provides support through Workers Compensation to any Island worker suffering trauma disorders and stressor-related disorders, including PTSD. This presumption applies to all workers covered by the PEI *Workers Compensation Act*.⁶⁰

Manitoba, Newfoundland and Labrador

In both Manitoba (MB)⁶¹ and Newfoundland and Labrador (NL), the presumptive coverage is exclusively for PTSD, for all workers in any occupation with a diagnosis, and who have been exposed to a traumatic event or events at work. In NL, effective July 1, 2019, all workers covered by the *Workplace Health, Safety and Compensation Act* who experience "a traumatic event or multiple events at work"⁶² are presumed to have developed their diagnosed PTSD as a result of their work.

Ontario, Alberta, Nova Scotia

- In Ontario (ON),⁶³ Alberta (AB),⁶⁴ and Nova Scotia (NS),⁶⁵ the presumptive coverage is exclusively for PTSD, and all 3 provinces include first responders (police officers, firefighters, and paramedics), emergency dispatch workers (dispatchers for first responders), and workers in correctional institutions.
- In AB and NS, peace officers and sheriffs are included.
- In NS, continuing care assistants and nurses are included.
- In ON and NS, "correctional institution" workers includes those directly involved in the care, health, discipline, safety and custody of inmates.
- In ON bailiffs, probation officers, members of the College of Nurses of Ontario, and Members of a police force who perform work in a forensic identification unit or a Violent Crime Linkage Analysis System unit of the police force are included.⁶⁶
- In ON, emergency medical attendants and ambulance service managers are included.
- In ON, workers in secure youth justice facilities are included.
- In ON, "firefighter" means full-time, part-time, and volunteer; and the following are also included: fire investigators, "members of an emergency response team,"⁶⁷ First Nations constables, and band council firefighters.

- In AB, “firefighter” means a full-time, part-time, casual, or volunteer firefighter employed by a municipality, or Métis settlement.
- In NS, “firefighter” means municipal and federal, paid and volunteer.

New Brunswick

In New Brunswick, the presumptive coverage is exclusively for PTSD, and exclusively for first responders (firefighters, police officers, and paramedics).⁶⁸ As mentioned earlier, the law rules out chronic mental stress that develops gradually and cumulatively over time.

British Columbia

On April 11, 2018, the BC labour minister Harry Bains announced amendments to the *Workers Compensation Act* to add PTSD and other mental injuries to a list of presumptive conditions. First responders, sheriffs, and both provincial and federal correctional workers who experience trauma on the job and are diagnosed with a mental disorder, will not have the added stress of having to prove that their disorder is work related in order to receive support and compensation. This legislation does not extend to call-takers and dispatchers, but Bains said his government “will consider over time expanding presumptions to other types of workers who experience traumatic events at work, as well as continuing to focus on overall workplace safety.”⁶⁹

Quebec, Northwest Territories, Nunavut, Yukon

These jurisdictions do not have presumptive legislation.

The implications of all this inconsistent legislation are not just inconveniences for workers. The implications can also be tragic. As reported in the February 2018 issue of *Canadian Occupational Safety*, in jurisdictions without presumptive legislation, workers must prove their PTSD was caused by their job, and once they get a diagnosis, they submit it to the Workers’ Compensation Board where it can be under review for quite some time. The same process applies to any other mental health disorders that workers develop over the course of their employment. During the waiting period, the worker is just sitting at home, not getting treatment, and “suffering tremendously,” said Jason Godin, then national president of the Union of Canadian Correctional Officers, and “this is when suicides happen.”⁷⁰

Is Presumptive Coverage Enough?

Even if the laws are amended across Canada to make them more consistent so that presumption includes all workers suffering from all mental injuries, caused by one event or many, presumptive legislation is not enough. More work still needs to be done regarding mental injury in the workplace.

Better Training

One area of needed improvement is training. In the USGE study discussed earlier, a high percentage of the workers examined said that they had received “little to no training”⁷¹ to prepare them for dealing with persistent exposure to traumatic stories, criminal histories, and graphic materials.

Removing Stigma

More work needs to be done to remove the stigma around mental injury in the workplace. It takes a lot of courage for injured workers to seek help, and there’s too much evidence that traumatized employees are not taken seriously. Once again, the USJE study is illustrative: more than half surveyed for Correctional Services Canada (CSC) reported a work environment that viewed mental health impacts as a sign of weakness in staff.⁷² One of the interview respondents said, “The culture at work only supports taking time off when staff are physically assaulted.” He added, “They shame staff who become depressed or overstressed due to traumatic material or threats to their safety.”⁷³

Better Education

There needs to be better education about workers’ rights and better guarantees to prevent reprisals. The fear about losing one’s job creates an obvious disincentive for injured workers to seek the help they need.

Quick Access to Services

Also, we need to ensure that injured workers have easy and quick access to services. A diagnosis of PTSD, by definition, can be made only after symptoms have persisted for one month,⁷⁴ so a delay in accessing Workers’ Compensation benefits is still possible.

Change Culture in Our Workplaces, and Change Laws across Canada

We need a culture change in our workplaces such that employers will encourage and support these injured workers. We need a society that does not stigmatize people with mental injury or mental health problems.

NUPGE is proud to say that our union has been playing such a strong role in removing the stigma against mental injury in the workplace. We've been working to see that the supports people need are there when they need them. We have campaigned for presumptive legislation across the country to get injured workers the benefits they deserve. We will continue to work to ensure that the very benefits we have fought for are not undermined.

We will continue to educate our members and the public, and to push for the urgently needed policy amendments explained here: to expand the definition of PSP to include these other workers, to get all mental injuries covered in provincial and territorial presumptive legislation, and to strive for coherence in legislation across Canada.

Notes

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² For a summary of the literature, see R. Nicholas Carleton et al, "Exposures to Potentially Traumatic Events Among Public Safety Personnel in Canada," *Canadian Journal of Behavioural Science / Revue canadienne des sciences du comportement* 51 no. 1 (2019): 38.

³ Ibid., 42, 48.

⁴ Ibid., 49.

⁵ Ibid.

⁶ R. Nicholas Carleton et al., "Mental Disorder Symptoms among Public Safety Personnel in Canada," *The Canadian Journal of Psychiatry* 63 no.1 (2018): 54.

⁷ Ibid.

⁸ Ibid.

⁹ Ibid., 55.

¹⁰ Ibid.

¹¹ Ibid., 59, 60, Table 4, 62.

¹² Ibid., 57.

¹³ Ibid., 59.

¹⁴ Ibid., 60.

¹⁵ Ibid., 60–61.

¹⁶ Ibid., 57–58.

¹⁷ Ibid., 57–58, 61.

¹⁸ Ibid., 61.

¹⁹ Ibid., 59, 60, Table 4, 62.

²⁰ Ibid., 58 Table 1.

²¹ Ibid., 58 Table 1, 60, Table 4.

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- ³⁴ Angela MacIvor. "Number of Prison Workers Suffering from PTSD Much Higher Than Official Stats, Union Says," CBC News, May 11, 2017, <https://www.cbc.ca/news/canada/nova-scotia/canada-prisons-corrections-ptsd-first-responders-coverage-1.2735583>.
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- ³⁶ Marianne Klowak, "Inmate Killings, Rising Violence Lead to Spike in PTSD Rate among Prison Staff: Union," CBC News, April 29, 2019, <https://www.cbc.ca/news/canada/manitoba/stony-mountain-james-bloomfield-workers-compensation-corrections-canada-1.5110580?fbclid=IwAR3oJGLbLPrEadHevIUjC8o973Kv3tjQNsIVuZlpSMTXIXakHUKnQyUSIQ0>.
- ³⁷ USGE, *Invisible Toll of Psychological Trauma*, 7.
- ³⁸ *Ibid.*
- ³⁹ *Ibid.*, 7–8.
- ⁴⁰ *Ibid.*, 1.
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- ⁴⁴ *Ibid.*, 2.
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⁵¹ (Nova Scotia) *Workers' Compensation Act*, 1994–95, c 10, s 10(1), <https://nslslegislature.ca/sites/default/files/legc/statutes/workers%20compensation.pdf>.

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⁷¹ USGE, *Invisible Toll of Psychological Trauma*, 4; “Psychological Trauma,” USJE.

⁷² USGE, *Invisible Toll of Psychological Trauma*, 55; “Psychological Trauma,” USJE.

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