

# Canadian workers at risk: Removing barriers to treatment for public safety professionals (PSP)

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## Gregory S Anderson, from Thompson Rivers University and Helen Dragatsi, from Government of Canada speak to us about removing barriers to treatment for Canadian workers at risk

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It has long been recognized that public safety personnel (PSP) experience a high risk of psychological impacts caused by traumatic events within their occupations. Such exposures have been linked to increased incidence of posttraumatic stress injuries (PTSI), including anxiety, posttraumatic stress disorder (PTSD), depressive disorders, suicide ideation, and substance abuse.

In response, most Canadian jurisdictions (provinces and territories) have adopted new workers' compensation legislative amendments that create a presumption in favor of PSP who suffer from trauma-induced mental disorders. In these situations, the mental disorder is presumed to have been caused by the responder's employment. These presumptive clauses facilitate access to workers' compensation for public safety professionals (PSP) who previously had the onus of proving that their psychological impairments resulted from their work.

### Claims and legislation for mental disorders

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Claims for mental disorders must relate to "one or more traumatic events arising out of and in the course of the worker's employment" or be "predominantly caused by a significant work-related stressor, including bullying or harassment, or a cumulative series of significant work-related stressors". (1) In 2018, British Columbia (BC), Canada, further adopted legislative amendments to the Workers' Compensation Act, creating a presumptive clause for PSP concerning a mental disorder claim.

Henceforth, if a worker in BC "who is or has been employed in an eligible occupation": a) "is exposed to one or more traumatic events arising out of and in the course of the worker's employment", and b) has a mental disorder diagnosed by a psychologist or psychiatrist, the "mental disorder must be presumed to be a reaction to the one or more traumatic events arising out of and in the course of the worker's employment," (1) unless the contrary is proved.

This amendment shifted the burden of proof from the employee to the employer, reducing the employee's time to treatment, stress, and potential exacerbation of their mental health condition to the point of suicide ideation.

## **Considerations for presumptive legislation implementation**

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Presumptive legislation is most often viewed as a positive development that increases early access to mental health support for those in PSP and related occupations where workers are at increased risk of exposure to potentially psychologically traumatic events with subsequent posttraumatic stress injury. Items to consider in presumptive legislation or its implementation moving forward include:

**Inclusiveness of eligible occupations:** Most jurisdictions that adopted presumptive legislation specify that the amendments apply only to designated PSP occupations. More inclusive language expanding the application of presumptive legislation is recommended.

**Presumptive legislation coverage:** Law and policy related to presumptive legislation do not fully capture the range of psychological symptoms and injuries that PSP experience following traumatic incidents, as are often limited to PTSD. Provinces and territories that have not yet adopted presumptive legislation open the door to a broader range of mental health claims. However, the claimant must demonstrate the injury occurred as a result of work. This burden is insurmountable for many who need to deal first with their mental health condition, life challenges related to that condition (such as struggles with family and work obligations), and treatment.

**Evidentiary and rebuttal requirements:** Evidentiary requirements for the rebuttal of the presumption that are not covered by presumptive legislation (e.g., interpretation of certain concepts, such as a "traumatic event" or a "workplace stressor") are concerning and may carry important consequences on PSPs' access to workers' compensation depending on how evidentiary requirements are interpreted.

**Applicable timeframes:** Challenges of legal timeframes for filing claims do not fully coincide with the onset, progression, or duration of trauma-related psychological injuries that vary widely across PTSI diagnoses. Ultimately, these timeframes may impact presumptive legislation's original purpose to improve mental wellness, prevent injuries, and improve return-to-work outcomes.

**Resources for implementing presumptive legislation:** Those involved in creating, managing, and delivering programs and services offered to PSP with PTSI observe the need for additional resources to help fund and support programs and services.

## **Summary of Recommendations**

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In considering the adoption of presumptive legislation or changes to existing presumptive legislation, we offer the following list of recommendations that come after extensive literature searching and stakeholder engagement.

1. Expand the coverage of presumptive legislation and ensure consistency between jurisdictions, in relation to:
  - Expanded occupational eligibility of PL to all workers and/or more PSP and related workers.
  - A broader range of PTSI should be covered in all jurisdictions' PL.
2. Reconsider applicable time limits for filing claims related to presumptive legislation
  - Extend or eliminate time limits to file or have claims adjudicated.
  - If time limits to file claims are used, they should begin from the date of diagnosis of the injury (as this may take a significant period of time).
3. Create more balanced evidentiary requirements for the diagnosis of a psychological injury for earlier intervention and applicability of presumptive legislation  
Include the diagnosis of a general practitioner for psychological injury experienced by a worker following a traumatic event (not limited to a clinical psychologist or psychiatrist) to reduce the time to diagnosis.
4. Increase accessibility and clarify legal and policy concepts in relation to PL
  - Ensure a broad definition of a traumatic event that arises out of or in the course of employment, consistent with the most recent and widely recognized scientific literature on PTSI.
  - Provide further clarifications in policy, WC tribunal decision summaries, or websites about the definition of a traumatic event for greater accessibility and understanding of the law.
5. Strengthen organizational interventions for effective prevention efforts and treatment of PTSI within PSP
  - Increase and/or offer relevant programs that specifically support primary, secondary, and tertiary prevention efforts (e.g., peer-support, crisis intervention, family support, therapy).
  - Create and/or implement return-to-work (RTW) accommodations or modified working conditions that allow for gradual re-exposure to trauma-related workplace triggers.

While we have made great strides in protecting at-risk workers, limitations still exist to present process and practice. Well-crafted presumptive legislation provides for greater approval of claims, and quicker access to care and may well save lives of those most traumatized.

## Reference

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1. <https://www.slideshare.net/KiranDubb/workers-compensation-actdocx>

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