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*Testimony before the Assembly Committee on Criminal Justice and Public Safety
State Senator André Jacque
January 9th, 2019*

Chairman Spiros and Members of the Committee on Criminal Justice and Public Safety,

Thank you for the opportunity to provide testimony in support of Assembly Bill 569, the Public Safety PTSD Coverage Act. This very bi-partisan legislation was drafted in partnership with a coalition of Wisconsin's public safety first responders to enable them to receive the necessary help to properly heal. I am pleased that a bi-partisan majority of this committee are co-authors of this proposal and have helped significantly in advancing this discussion since the previous session.

Law enforcement and firefighters are routinely subjected to catastrophic incidents involving severe injury or death. The individual and cumulative effects of exposure to these incidents while serving our communities has had a debilitating effect on our brave public safety officers, causing many to suffer from and be diagnosed with Post-Traumatic Stress Disorder or PTSD.

With increasing suicide rates for first responders suffering from PTSD, now outpacing on-duty deaths, there is a general consensus that something needs to be done. The Public Safety PTSD Coverage Act will make changes to finally clarify the conditions of liability for worker's compensation benefits for a law enforcement officer or a fire fighter who is diagnosed with post-traumatic stress disorder to ensure the coverage they need is received. Similar legislation has been passed in recent years by several other states, including Minnesota, with negligible impact on overall workers compensation system costs.

While current law provides that an employer is liable for accidents or diseases of its employees if the accident or disease causing injury arose out of the employee's employment, it also requires that for a mental injury to be compensable under the worker's compensation law, the mental injury must result "from a situation of greater dimensions than the day-to-day emotional strain and tension which all employees must experience," stemming from a 1974 Wisconsin Supreme Court Case. However, the day-to-day situations faced by public safety first responders (by the very nature of their occupation) involve death, danger and violence with such frequency that they are much more likely to experience PTSD from the cumulative effect and suffer greatly as a result.

This bill eliminates the "greater dimensions" requirement for coverage of a public safety first responder's work-related PTSD diagnosis, recognizing that while a single event can trigger PTSD, so can repeated exposure to dangerous high stress events (the emotional responses to which may often be very different between any two people). AB569 requires a preponderance of evidence standard and that the mental injury is not the result of or first reported during a good-faith employment action by the person's employer. Additionally, this bill includes a key compromise between all stakeholders of 32 weeks of covered treatment after the injury is first reported. Helping public safety employees with the treatment needed to recover from PTSD and return to work also reduces the long term costs of duty disability and training of new personnel.

PTSD can be treated effectively, and allow those affected to return to protecting and serving the public. It is critical that the men and women we have depended on as first responders that are affected by PTSD have access to treatment and the support they need to recover, both for their own health and those who depend on them.

This proposal enjoyed strong bi-partisan co-sponsorship both last Session and this Session, and Senate Committee on Labor and Regulatory Reform just last month voted unanimously 5-0 to recommend the bill for passage. I also want to thank the members of the Worker's Compensation Advisory Council and its Labor and Management Caucuses for their consideration and support in development of the language of Assembly Bill 569. Please join myself, 40 of my fellow co-authors and co-sponsors, the Wisconsin Professional Police Association, Wisconsin Chiefs of Police Association, Professional Fire Fighters of Wisconsin, Wisconsin Troopers Association Inc, Wisconsin Sheriffs and Deputy Sheriffs Association, and Badger State Sheriffs' Association in supporting the Public Safety PTSD Coverage Act.



CODY HORLACHER

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January 9th, 2020

Chairman Spiros and Assembly Criminal Justice and Public Safety Committee Members,

Thank you for holding a Public Hearing on AB 569 related to claims for compensation for post-traumatic stress disorder by police officers and fire fighters under the worker's compensation law.

With increasing suicide rates for first responders suffering from PTSD, there is a general consensus that something needs to be done. The Public Safety PTSD Coverage Act will make changes to finally clarify the conditions of liability for worker's compensation benefits for a law enforcement officer or a fire fighter who is diagnosed with post-traumatic stress disorder to ensure the coverage they need is received. Similar legislation has been passed in recent years by several other states, including Minnesota, with negligible impact on overall workers compensation system costs.

While current law provides that an employer is liable for accidents or diseases of its employees if the accident or disease causing injury arose out of the employee's employment, it also requires that for a mental injury to be compensable under the worker's compensation law, the mental injury must result "from a situation of greater dimensions than the day-to-day emotional strain and tension which all employees must experience," stemming from a 1974 Wisconsin Supreme Court Case. However, the day-to-day situations faced by public safety first responders (by the very nature of their occupation) involve death, danger and violence with such frequency that they are much more likely to experience PTSD from the cumulative effect and suffer greatly as a result.

This bill eliminates the "greater dimensions" requirement for coverage of a public safety first responder's work-related PTSD diagnosis, recognizing that while a single event can trigger PTSD, so can repeated exposure to dangerous high stress events (the emotional responses to which may often be very different between any two people). SB 511 requires a preponderance of evidence standard and that the mental injury is not the result of or first reported during a good-faith employment action by the person's employer. Additionally, this bill includes a key compromise between all stakeholders of 32 weeks of covered treatment after the injury is first reported. Helping public safety employees with the treatment needed to recover from PTSD and return to work also reduces the long term costs of duty disability and training of new personnel.

PTSD can be treated effectively, and allow those affected to return to protecting and serving the public. It is critical that the men and women we have depended on as first responders that are affected by PTSD have access to treatment and the support they need to recover, both for their own health and those who depend on them.

The Public Safety PTSD Coverage Act is supported by the Wisconsin Professional Police Association, Wisconsin Chiefs of Police Association, Professional Fire Fighters of Wisconsin, Milwaukee Police Association, Milwaukee Professional Fire Fighters Association, Wisconsin Sheriffs and Deputy Sheriffs Association, Wisconsin Troopers Association, and Badger State Sheriffs' Association.

This legislation was presented to the Wisconsin Worker's Compensation Advisory Council and has been included in the agreed upon language that is working its way through the legislature.

I appreciate your consideration of this bill and I would be happy to answer any questions you may have.

STATE REPRESENTATIVE
Jodi Emerson



91st ASSEMBLY DISTRICT

REPRESENTING EAU CLAIRE

To: Members of the committee on Criminal Justice and Public Safety

From: Rep. Jodi Emerson

Date: 1/9/2020

Re: AB 569

Chairman Spiros and members of the committee,

Thank you for holding this hearing on AB 569. This is a bill that I and the other authors have been working on for almost a year. Versions of this bill have been presented in previous sessions and we have worked hard to take the feedback and incorporate that into this bill to make it something that works for all of us.

We are all here in this building because we want to serve the public. Many of us are on this committee because we want to support the work that our first responders do every day to keep us and our constituents safe. We ask a lot of these first responders and we hold them to a high standard, as we should.

It is often said that heroes run to something that others run away from. It is cliché but true. But I want you to stop and think for a few minutes about what those heroes are seeing, experiencing and feeling when they run into what we run from.

Post-Traumatic Stress Disorder or Post-Traumatic Stress Injury as it is sometimes called does impact our first responders more often than other workers. It is because of the repeated exposure to the traumatic events that they are seeing every single day of their careers. Over the years, we have learned much about mental health and how to protect people from stress that can negatively impact their jobs, their lives and their families. Departments across the state have implemented programs to help workers deal with the stress and strain their jobs cause. But sometimes these programs aren't enough. Sometimes the cumulative effect of this stress is too much and time off or additional counseling and support is needed. We want to make sure that these heroes get the help they need and deserve so they can return safe and healthy to their jobs.

We will be hearing from people today about how PTSD has impacted themselves or someone they know. We may also hear about reasons why we shouldn't pass this bill. I believe that we have changed the bill from previous years enough to address those concerns.

First responders are a vital to keeping our communities safe but communities across the state are struggling to recruit and retain the people choosing to go into these jobs. Let's make sure that we can do everything possible to make these jobs safe (both mentally and physically) for those that work to keep us safe.

This bill is strongly supported by both parties and several groups you will hear from today. Please pass this bill and let's make sure we are protecting those who are always protecting us.

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Wisconsin Legislative Council



Anne Sappenfield, Director
Jessica Karls-Ruplinger, Deputy Director

TO: SENATOR ANDRE JACQUE

FROM: Margit Kelley, Senior Staff Attorney

RE: 2019 Senate Bill 511, Relating to Claims for Compensation for Post-Traumatic Stress Disorder by Police Officers and Firefighters Under the Worker's Compensation Law

DATE: December 6, 2019

This memorandum briefly describes 2019 Senate Bill 511, relating to a worker's compensation claim by a police officer or full-time member of a fire department for post-traumatic stress disorder (PTSD). The memorandum also provides information regarding questions about the bill that have been raised by the City of Milwaukee.

BACKGROUND

Under current law, employment-related PTSD could be covered as an "injury" by worker's compensation, as a type of mental injury that is recognized by the law. [s. 102.01 (2) (c), Stats.] However, under current case law, in order for the claim to be recognized, a person must prove that it was caused by **unusual stress** compared to other similar employees.

The Wisconsin Supreme Court has held that mental injury is compensable only if it results from a situation of greater dimensions than the day-to-day mental stresses and tensions that all employees must experience. This is commonly referred to as the "unusual stress" test or the "greater dimensions" test. [*School Dist. No. 1 v. DILHR*, 62 Wis. 2d 370 (1974).]

This has been interpreted to mean that the stress that caused the disorder must be unusual for someone similarly situated in that type of occupation. If an event could foreseeably be encountered by personnel in a particular field, then it would not be compensable.

For example, courts have held that a special weapons and tactics (SWAT) team officer who shot and wounded a suspect who was armed with a knife experienced an event that could foreseeably be encountered, while a deputy sheriff who was transporting a person in custody experienced a grisly event that was out of the ordinary when the deputy sheriff witnessed the person self-inflict fatal wounds with a scalpel that had not been discovered. [See, for example, *Swiss Colony, Inc. v. DILHR*, 72 Wis. 2d 46 (1976); *Probst v. LIRC*, 153 Wis. 2d 185 (Ct. App. 1989); *Jensen v. Employers Mut. Cas. Co.*, 161 Wis. 2d 253 (1991); *Bretl v. LIRC*, 204 Wis. 2d 93 (Ct. App. 1996); *County of Wash. v. LIRC*, Wis. Ct. App. No. 2012AP1858-FT (Jan. 9, 2013, unpublished); *Burt-Redding v. LIRC*, Wis. Ct. App. No. 2016AP916 (July 18, 2017, unpublished).]

THE BILL

Senate Bill 511 creates specific circumstances in which PTSD may be a covered injury, if all other worker's compensation requirements are met.

Specifically, under the bill, a worker's compensation claim by a law enforcement officer or a full-time member of a fire department may be compensable for a mental injury that results in PTSD if the PTSD diagnosis is made by a licensed psychiatrist or psychologist and the mental injury arose out of and in the course of the employment. The bill specifies that the diagnosis does not need to be based on unusual stress of greater dimensions than the day-to-day emotional strain and tension that may be experienced by similarly situated employees.

The bill also specifies that a PTSD claim by a law enforcement officer or a full-time member of a fire department is not compensable if the mental injury is the result of certain actions taken in good faith by an employer. In particular, a claim cannot be based on a good faith disciplinary action, work evaluation, job transfer, layoff, demotion, or termination.

The bill limits the period of disability for which worker's compensation can be paid to a law enforcement officer or member of a fire department for a mental injury that results in PTSD to 32 weeks from the first report of the injury.

The bill does not modify the unusual stress test that would continue to apply under current case law for all other work-related mental injuries, such as anxiety disorder or depression.

QUESTIONS FROM THE CITY OF MILWAUKEE

The City of Milwaukee submitted a memo to the worker's compensation advisory council on November 11, 2019, which suggested two potential changes to the bill.

First, the city suggests that language be added to indicate that a mental injury may not be the result of an investigation or notice of investigation into allegations of misconduct. The bill could be amended to accommodate that language, or to re-phrase the list of good faith actions to clearly specify that the list is not exhaustive. However, the bill requires a specific diagnosis of PTSD by a licensed psychiatrist or psychologist, and the Diagnostic and Statistical Manual (DSM) used in those professions identifies certain trauma to which a person must have been exposed. Among the criteria that are required for a diagnosis of PTSD, a person must have direct or indirect exposure to death, serious injury, or sexual violence, or direct or indirect exposure to a threat of one of those traumatic incidents. Accordingly, it appears that an investigation into allegations of misconduct could not be considered to be a cause of mental injury for a PTSD claim by a law enforcement officer or member of a fire department.

Second, the city suggests language be added to require evidence of a link between the PTSD diagnosis and a specific work activity, experience, or situation during which the employee was fulfilling job responsibilities. However, the bill specifies that other worker's compensation requirements must be met, in addition to the professional diagnosis of PTSD. In particular, among those other provisions, the employee must be performing services growing out of and incidental to the employment at the time of the injury, and the mental injury must arise out of and in the course of the employment. Accordingly, it appears that the bill already satisfies this suggestion by requiring that those other conditions of liability for worker's compensation be met.

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

MSK:ty

Wisconsin Chiefs of Police Association, Inc.

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Executive Director
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Timothy J. Styka
Treasurer
Menasha



January 9, 2020

To: Chairman Spiros and members of the Assembly Committee on Criminal Justice and Public Safety

From: Chief Greg Leck, WCPA Legislative Co-Chair

RE: Support AB 569, workers compensation coverage or law enforcement officers with PTSD.

Thank you Chairman Spiros, for your willingness to hold a hearing on this bill. As a former law enforcement officer yourself, you know how very serious this issue is for law enforcement. We also are grateful for our lead Assembly authors, Reps. Cody Horlacher and Jodie Emmerson and the other members of this committee who are co-sponsors of this legislation. We urge support of AB 569, which has come a long way from previous bills. It will provide a path for law enforcement officers, and others in public safety, who suffer from PTSD to get insurance coverage, but more importantly, to get the help they need. Today's bill represents a lot of hard work and compromise from many stakeholder groups.

We also appreciate the support of our Senate lead authors ---Senator Andre Jacque, Senator Van Wanggaard and Senator Janet Bewley for working with us. Also, the variety of other stake holder groups representing the business community, insurance companies, and the League of Wisconsin Municipalities to name a few—to get us to an agreed upon compromise bill that is before you today.

We also want to thank the Workers Compensation Advisory Council, (the WCAC), who has included this exact bill language in their agreed upon bill that has been sent to the standing committees for approval.

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We understand the importance of trying to make changes via the WCAC. This legislation is a safeguard for this issue to be addressed this session, just in case the WCAC bill is not acted on before the legislature adjourns. Frankly, public safety just needs this done to help ensure the mental health of our First Responders.

The Wisconsin Chiefs of Police Association represents more than 700 communities across this state. As Police Chiefs, we oversee the well-being of more than 10,000 men and women who wear a badge every day and take an oath to protect and serve citizens in their communities and across this state.

The National Law Enforcement Officers Memorial Fund released its mid-year [line of duty death statistics](#) showing that 60 officers nationwide have died in the line of duty as of July 1, 2019. This same report showed that twice as many police officers have taken their own lives as have been killed in the line of duty. The suicide rate among police officers is about 16 per 100,000, according to 2013 figures, the latest available from a Centers for Disease Control and Prevention database.

It is a sad day when an officer commits suicide because they cannot get the help they need. This is why insurance coverage for PTSD for law enforcement is the number one issue for police departments around the country. Tragically, we all see law enforcement suicides as an ever-present challenge across this country. The positive news is more officers who suffer from PTSD ---want to get help. Many other states have already passed different forms of worker's compensation coverage for PTSD treatment for law enforcement officers. We hope through passage of AB 569, Wisconsin will join them.

At time when fewer people are going into law enforcement, passage of this bill will signal that yes, the citizens and lawmakers of this state do care about the men and women in uniform. We know policing is a much tougher job today than it was years go. With fewer people going into law enforcement, the average cost to replace an officer with training is well over \$100,000 per officer.

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When we lose a good officer, because we have not adequately helped them deal with the issues they see every day, we have failed them and the communities they represent. Not many talk about this failure and it is on all of us for not recognizing and dealing with the needs of those we depend on to take care of us. That is the real cost of public safety.

I am also attaching prior testimony from just retired former Middleton Police Chief Chuck Foulke who testified before the WCAC late last year. I would encourage you to read it. His description of the 2018 Active Shooter incident at an office building, right here in the Madison Area, and its ongoing impact on the officers who responded to that call for help. Their response prevented the loss of many lives that day. But it has taken a toll on those responders. Sadly, it is a story that is replicated across our communities every day.

We urge you to support this separate legislation or the WCAC package that will include this exact language, **which ever moves quicker.**

Thank you in advance for your consideration.

WISCONSIN PROFESSIONAL POLICE ASSOCIATION

Law Enforcement Employee Relations Division • Supervisory Officers Relations Division • Civilian Employees Relations Division

MEMORANDUM

DATE: January 9, 2020

TO: ASSEMBLY COMMITTEE ON CRIMINAL JUSTICE & PUBLIC SAFETY

FROM: Jim Palmer, Executive Director
Wisconsin Professional Police Association

RE: 2019 Assembly Bill 569

Representing over 10,000 members from more than 300 local association affiliates, the Wisconsin Professional Police Association (WPPA) is the state's largest law enforcement group. Our mission is to protect and promote public safety, as well as the interests of the dedicated men and women that serve to provide it. In that vein, we offer this memorandum to express our **SUPPORT of 2019 Assembly Bill 569**, which would create specific circumstances in which post-traumatic stress disorder (PTSD) may be a covered injury under Wisconsin's Worker's Compensation Laws.

For decades, far too many first responders in Wisconsin have been significantly harmed by the fact that they could not obtain worker's compensation benefits and protections after developing PTSD as a result of the stressful and dangerous incidents they had to endure in the line of duty. This began in 1974 when the Wisconsin Supreme Court held that, in order for an employee with PTSD to receive worker's compensation, they "must show that the mental injury was caused by unusual stress of greater dimensions than the day-to-day emotional strain and tension experienced by similarly-situated employees." This ruling has been applied to prevent first responders from receiving worker's compensation benefits on the basis that the horrific duty-related incidents that have caused PTSD "was what they signed up for." As a result, first responders suffering from PTSD have found themselves faced with the impossible choice of either having to return to work without the ability to first get the help that they need or to leave the profession entirely.

Since 1974, however, the medical community's understanding and acceptance of PTSD has changed dramatically. The diagnosis and treatment of PTSD is now well-established, and many states throughout the country are updating their worker's compensation laws to enable officers to get the help they need and deserve. Medical professionals and public policymakers across the United States have demonstrated a growing recognition of PTSD and of the obligation to take care of those that incur this devastating mental injury in the course of their service to their communities. AB 569 reflects the value that we ought to place in the duties performed by our dedicated first responders and take care of those after they have suffered in their service to protect us.

The precise measure before this committee was recently approved by the Wisconsin Worker's Compensation Advisory Council for inclusion in the Agreed Upon Bill. For that reason and those outlined herein, we respectfully request that this committee approve AB 569 as soon as it is possible to do so in order to advance this reform of extraordinary importance to our law enforcement community and other first responders.

Thank you in advance for your consideration.



JACKSON POLICE DEPARTMENT

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Integrity - Respect - Courage



RYAN D. VOSSEKUIL
CHIEF OF POLICE

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Written Testimony of: Chief Ryan Vossekuil, Jackson Police Department

Before the: Assembly Committee on Criminal Justice and Public Safety

January 9, 2020

I'd like to thank the chairman and the committee for the opportunity to provide testimony regarding Assembly Bill 569. My name is Ryan Vossekuil and I serve as the Police Chief in the Village of Jackson. I'd like to share with you my department's experience as it relates to post-traumatic stress disorder and the worker's compensation claim process. Officer Kyle Henning is a ten-year veteran police officer with our department, and he has given permission to share his name and his story with this committee.

On July 1, 2016, Jackson Officers responded to a domestic violence incident in the village. A woman had called 911 to report that a man had forced entry into her apartment and was assaulting her and had threatened to kill her. Screaming could be heard on the line when the call abruptly disconnected. When officers arrived on scene, they entered the apartment and found the woman had been taken hostage in her shower. The man, a 58-year-old former boyfriend of the woman, held her head with his arm and held a knife to her face.

The man ignored commands to drop the knife and Officer Henning was forced to use deadly force to save the woman's life. This officer-involved death was investigated by the Wisconsin Department of Justice – Division of Criminal Investigation. Ultimately, the shooting was reviewed by the Washington County District Attorney and determined to be justified.

Officer Henning returned to duty several months later and dealt with ongoing flashbacks to the shooting. In August of 2019, Officer Henning responded to a domestic violence call. As he walked up the driveway, a man lit off a firecracker inside the residence. Officer Henning began experiencing sleeplessness, panic attacks and flashbacks to the 2016 officer-involved shooting. Officer Henning became unable to work in September. As of today, he is still unable to work and receiving treatment for PTSD.

Officer Henning's claim for worker's compensation was denied. According to our insurance carrier, the shooting was not considered "extraordinary stress", and he has exhausted his paid



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leave. Officer Henning upheld his oath to protect our community, but unfortunately the state's "extraordinary stress" standard prohibited Officer Henning from receiving the benefits he and his family need and deserve. For the benefit of police officers and firefighters that will experience similar situations in the future, I respectfully request that you vote in support of this measure.

Thank you for your consideration.

Respectfully,

Chief Ryan Vossekuil



To: Members, Assembly Committee on Criminal Justice & Public Safety
From: Badger State Sheriffs' Association (BSSA)
Wisconsin Sheriffs and Deputy Sheriffs Association (WS&DSA)
Date: January 9, 2020
RE: Comments in Support of Assembly Bill 569

Chairman Spiros and committee members. Thank you for the opportunity to testify today in support of Assembly Bill 569. I am Sheriff Dave Mahoney from Dane County, a Board Member of the Badger State Sheriffs' Association and member of Wisconsin Sheriffs and Deputy Sheriffs Association (WS&DSA). BSSA is a statewide organization representing all of Wisconsin's 72 Sheriffs. WS&DSA is a statewide organization representing over 1,000 members, including Sheriffs, Deputies, and jail officers. BSSA and WS&DSA have a joint legislative committee and work closely on public safety issues of concern to our members.

Everyday law enforcement officers across the state work to serve and protect the public's safety. Like myself, my fellow brothers and sisters in uniform understand that the job can be dangerous and unpredictable. As part of the job, we regular encounter situations that can be violent, traumatic and unimaginable. Over time, these events can cumulate, and individuals can struggle with physical and emotional conditions.

Assembly Bill (AB) 569 is an important step for our state and provides reasonable and necessary worker's compensation coverage for a public safety-first responder's post-traumatic stress diagnosis (PTSD). Under the bill, the PTSD diagnosis must be made by a licensed psychiatrist or psychologist. Key to the bill is the exemption of the "greater dimensions" standard – which recognizes that a mental injury can develop not just from one traumatic event, but numerous incidents over time.

The bill also includes important safeguards to ensure the diagnosis is not a result of several actions, including a job transfer, layoff or demotion. In addition, the bill provides 32 weeks of coverage – a time frame to allow the officer to receive the treatment and time to heal and hopefully return to work.

Finally, we would like to acknowledge the hard work the authors, Sen. Jacque and Rep. Horlacher have put into this bill. Also, we wanted to recognize our fellow law enforcement and fire fighter organizations that have continued to tirelessly fight for this coverage.

This legislation is essential to ensure our first responders struggling can get the help needed. On behalf of BSSA and WS&DSA we ask you support this bill.

Thank you for your consideration.



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To: Assembly Committee on Criminal Justice and Public Safety
From: Curt Witynski, J.D., Deputy Director, League of Wisconsin Municipalities
Date: January 9, 2020
Re: **AB 569, Workers Compensation Coverage for PTSD Claims by Police and Fire**

The League of Wisconsin Municipalities and Cities and Villages Mutual Insurance Company (CIVMIC) neither support nor oppose AB 569 but recommend the bill be amended to clarify that the extraordinary stress standard for non-traumatic mental injuries continues to apply to duty disability claims filed under sec. 40.65. If Assembly Bill 569 is enacted into law as currently written, it may have an impact on duty disability benefits paid to protective service employees. The duty disability program is found in Wisconsin Statute s. 40.65. Subparagraph (2)(a) reads, in part, "Appeals from the eligibility decisions shall follow the procedure under ss. 102.16 to 102.26."

AB 569 creates subsection, s. 102.17(9). Subsection, s. 102.17(9)(b)3 explicitly removes the extraordinary stress standard for worker's compensation benefits paid to protective service employees. Reading the new s. 102.17(9)(b)3 and s.40.65(2)(a) together may lead to the conclusion that AB 569 eliminates the extraordinary stress standard for duty disability claims.

If AB 569 passes as currently written, the financial impact on local government units' monetary contributions to the Duty Disability Fund may be significant. If the extraordinary stress standard is eliminated for duty disability, it can be anticipated that more protective service employees will become eligible for lifetime benefits. It does not appear that this financial impact has been evaluated.

At a minimum, if AB 569 does not specifically address duty disability in s. 102.17(9), the legislative intent will be subject to varying interpretations. This will result in administrative hearings and appeals to the courts relitigating whether the extraordinary stress standard applies to duty disability. We urge you to add language such as the following to clarify that the extraordinary stress standard remains in place for duty disability:

40.65 (2)(b) 4 is amended to read:

40.65 (2)(b) 4 In hearing an appeal under subd. 3., the division of hearings and appeals in the department of administration shall follow the procedures under ss. 102.16 to 102.26, except for 102.17(9). In the case of a mental injury that is not accompanied by a physical injury, participants shall only be entitled to benefits if the mental injury is the result of unusual stress of greater dimensions than the day-to-day emotional strain and tension experienced by similarly situated employees.

Also, the following language should be inserted in sec. 102.17(9):

This subsection does not apply to claims brought under Wis. Stat. 40.65.

Thanks for considering our concerns.

YOUR VOICE. YOUR WISCONSIN.



Department of Employee Relations

Tom Barrett
Mayor

Maria Monteagudo
Director

Renee Joos
Employee Benefits Director

Nicole Fleck
Labor Negotiator

City of Milwaukee Testimony regarding SB 511/AB 569

January 9, 2020

Assembly Committee on Criminal Justice and Public Safety

Thank you for the opportunity to testify in support of this important legislation. We have recognized and appreciated changes already made to address Milwaukee's concerns. We share your interest in ensuring benefits and protections are available to public safety personnel as they continue to be exposed to an increasing number of traumatic events while performing their difficult work.

Over the last several years, the City of Milwaukee has made a firm commitment to the health and well-being of our employees, including our protective service personnel. Every program is designed to help employees manage work and personal stressors for a better work/life balance. We have invested in an on-site workplace clinic, dedicated EAP resources, Peer Support Teams, Care 24 Programming through UnitedHealthcare, and have funded an on-site health advocate to help employees navigate through difficult healthcare decisions.

The City recognizes the need and the importance of a system that allows public safety personnel to file worker compensation claims when they are exposed to traumatic critical incidents. We also support the need to facilitate access to help to ensure immediate and appropriate medical care and recovery.

In order to ensure that only the individuals truly impacted by these unfortunate events receive the help and benefits they are entitled to under applicable law, we believe that one additional provision should be added. The City of Milwaukee is respectfully requesting the addition of an employment investigation or notice of investigation into allegations of misconduct as one of the situations that can't trigger a claim of PTSD.

This addition is necessary because we don't believe, as documented in the December 6th Legislative Council memo, that the Diagnostic and Statistical Manual definition of PTSD is by itself a bar to filing a claim when there is an investigation into allegations of misconduct. Furthermore this definition does not preclude a psychiatrist from assigning a PTSD diagnosis to a member who is a patient. The proposed language is consequently needed to deal with actual cases where members have used an investigation or notice of investigation as a triggering event for filing a PTSD claim as described below.

1. A Police Detective was witnessed entering a secure work area of the Chiefs Office of Management, Analysis & Planning which is responsible for the research, data, and policy matters. The Detective and a coworker, who were not assigned to work within that location, accessed this office after hours without authorization. The Detective was investigated for being in a secured locked area after hours for an office she was no longer assigned to. The investigation did not result in disciplinary action but the Detective filed a workers compensation claim for stress and a medical provider diagnosed her with PTSD as a result to the internal investigation.



2. A number of Police Officers were being investigated due to allegations of illegal strip searches. Many of the allegations began with a stop, followed by a pat down and illegal cavity searches. Officers were charged with violating strip search law, misconduct in public office and second degree sexual assault. During the investigation, stress claims were filed under workers' compensation.

3. Milwaukee Fire Department Engine house 32 in which extensive vandalism, disorder and damage to the firehouse by MFD staff personnel which were permanently transferred from the engine house to other work at other engine locations. The damage included defecation of property, apparent urine and feces in inappropriate areas, broken equipment, and a dead rat hung on someone's locker. Two stress claims were filed by members being investigated while the investigation was going on.

4. A number of Police Officers and a Sergeant went sledding in a cemetery when they were supposed to be on duty. One officer broke some ribs. According to the criminal complaint the Sgt. not wanting to get anyone in trouble, advised the officers to go to another location and invented a crime in order to justify the accident of the broken ribs. While being placed under investigation, employees filed both false injury claims and stress claims. The charges were substantiated and both w/c fraud charges and criminal charges were filed. Employees were disciplined or discharged as a result of this matter.

Employment investigations into allegations of misconduct are a key component of the due process rights members have per applicable state statutes and provisions of collective bargaining agreements. The proposed language is designed to ensure that notice of the investigation or the investigation itself does not trigger a claim of PTSD as was the case in the examples provided.

These investigations are separate and distinct from investigations conducted by law enforcement agencies after a traumatic critical incident such as an officer involved shooting or after an incident involving excessive use of force. The proposed language does not interfere with an employee's ability to file a worker's compensation claim after a traumatic incident. An investigation after a traumatic incident has absolutely no effect on an employee's ability to file a worker's compensation claim based on the underlying event. It is up to the employee how they want to shape their claim. If the traumatic incident is the basis of the claim, then the employee can simply claim as much.

We have been made aware of concerns shared with legislators that investigations or notice of investigation into allegations of misconduct should not be included as an exception to the current bill because of the lack of clearly-defined legal standards used to determine if the investigations are lawful and made in good faith. However, it is important to recognize that the same way a member has a legal mechanisms to challenge the exceptions listed in the current bill (discipline, work evaluation, job transfer, layoff, demotion, termination), that member could also challenge the same personnel action by claiming it violates the ADA, Title VII, the Wisconsin Fair Employment Act, or the Municipal Employment Relations Act. The same is true of a personnel investigation; an employee could claim that the investigation is undertaken for an illegal purpose based on a protected characteristic or the employee's union activity or that the investigation demonstrates harassment or retaliation for protected action. These are the appropriate remedies for such cases.

Thank you for the opportunity to participate in this hearing. Your serious consideration of the proposed addition is truly appreciated.



Study: More firefighters died by suicide than in the line of duty in 2017

A study found that 103 firefighters and 140 police officers died by suicide in 2017, compared to 93 firefighter and 129 officer line-of-duty deaths

Apr 13, 2018

By FireRescue1 Staff

NEWTON, Mass. — A recent study found that more firefighters and police officers died by suicide in 2017 than all line-of-duty deaths combined.

USA Today reported that 103 firefighters and 140 police officers died by suicide in 2017, compared to 93 firefighter and 129 officer line-of-duty deaths, according to the Ruderman Family Foundation, a philanthropic organization that fights for the rights of people with disabilities.



A recent study found that 103 firefighters died by suicide in 2017, compared to 93 line-of-duty deaths. (Photo/Pxhere)

The study also found that little has been done to address PTSD and depression in responders, even though they are five times more likely than civilians to suffer from symptoms.

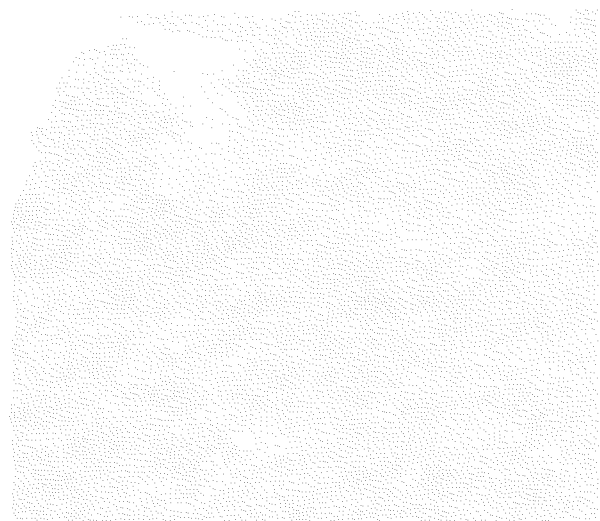
Study co-author Miriam Heyman said suicides are not reported as much as the high-profile on-duty deaths.

“It’s really shocking, and part of what’s interesting is that line-of-duty deaths are covered so widely by the press but suicides are not, and it’s because of the level of secrecy around these deaths, which really shows the stigmas,” Heyman said.

Heyman added that five percent of departments do not have suicide-prevention programs.

“There is not enough conversation about mental health within police and fire departments,” the study says. “Silence can be deadly, because it is interpreted as a lack of acceptance and thus morphs into a barrier that prevents first responders from accessing potentially lifesaving mental health services.”

The study suggested programs such as peer-to-peer assistance, mental health checkups and time off after particularly hard calls.



Fox 21 News

Mother Speaks About Superior Firefighter Son's Suicide; Dept. Holds New Support Training

March 7, 2019

Dan Hanger, Andrew Kirov

SUPERIOR, Wis. – Cheryl Sutton, the mother of Erik Sutton — a retired Superior fire battalion chief – broke her silence Thursday about her son's suicide to FOX 21's Dan Hanger.

This, as the Superior Fire Department – for the first time – takes on special mental health training to help prevent another tragedy involving one of their own.

“Each step of his career, it was like, wow, this kid has made it. This is great. This is fantastic. But underlying it, we had no clue what was going on,” said Cheryl Sutton, Erik's mother.

“Whenever that bell goes off, you put the personal stuff aside and you go on the call — and sometimes you have to deal with some pretty traumatic things,” said Suzi Olson, captain of the Superior Fire Department and president of the Superior Firefighters Local 74.

Olson says the old days of firefighting are long gone with traumatic medical calls becoming far too common.

“Just in my 17 years here, the job has changed significantly and I'm dealing with things now I never thought I would have to deal with as a firefighter,” Olson said.

Olson says the added life-and-death stresses of the job are pushing too many firefighters into a dark path.

“It's becoming a problem on a national level where we have more firefighters passing away from suicide than in the line of duty,” Olson said.

National statistics show firefighter suicides are on the rise in the U.S., exceeding 100 deaths every year since 2014.

In 2018, one of those deaths was retired Superior Battalion Chief Erik Sutton.

"As his family — didn't have a clue. He was a hell of an actor," Erik's mother Cheryl said to a group of Superior firefighters and area first responders at the Northland's first-ever behavior and mental health training from the International Association of Fire Fighters on Thursday.

Cheryl says Erik always wanted to be a firefighter since he was a young kid, and he always had a heart for helping others — even up until his death at 46 years old.

"He was tall, good looking, easy to get along with, fantastic sense of humor, always a big smile on his face, first one to help if anybody to need help," Cheryl said.

But things began to change as all types of stressful medical calls became the norm for the fire department.

"Just really, really horrific — lots of death. And he didn't know how to deal with it, how to process it — and so he buried it," Cheryl said.

Burying it, Cheryl said, meant getting off the rig and taking a promotion as battalion chief.

But when his demons still ate away inside, he retired from the department after 20 years of service hoping for relief — relief that never came and only got worse after Erik's father took his own life while battling a debilitating disease.

"He had Parkinson's. He just couldn't deal with being disabled anymore," Cheryl said. "I think Erik blamed himself. He should have been able to stop it."

Erik, their only child, would end his life just three months later.

"I didn't see anything. That's probably the hardest thing, but when I hear now from his co-workers that he sometimes was isolating himself, that just wasn't Erik," Erik said.

"When you lose someone to suicide that you work so closely with and you see all the time, you can't help but kind of wonder what did we miss — what could we have done different," said Superior Fire Capt. Lindzi Campbell-Rorvick.

Campbell-Rorvick worked side by side with Erik throughout his career, and is part of the reason the special two-day support training was set up.

"If we can do anything to honor Erik's memory, it's that we can put this class on and help other people that might need help and create that safety net to catch people before they fall too far," Campbell-Rorvick said.

And that's exactly how Cheryl is choosing to keep Erik's memory alive while keeping her spirit alive as well.

"I would have preferred he was a poster child for something else right now, but if his death can save somebody else's by training that's going on right now, then I'll be grateful," Campbell-Rorvick said.

The \$7,500 two-day training with the International Association of Firefighters was paid in part by the support of the city of Superior, Essentia Health, Superior Water Light & Power and WITC.

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January 8, 2020

Representative Spritzer,

As members of Green County EMS Association, we would like to thank you for your continued work for the betterment of Wisconsin. As first responders, we also are looking out for what is best for our residents and visitors. In Green County, each EMS service is a stand-alone service not affiliated with a fire department. Each service is also staffed by volunteers that donate their time or are paid a very small stipend to provide the same care as career EMS departments.

Recently AB 569 was introduced for compensation for post-traumatic stress disorder by police officers and fire fighters under the worker's compensation law. While we support the need for the treatment and well-being of all first responders, career or volunteer, the wording of this bill leaves out EMS providers. EMS providers respond to the same incidents as our brothers and sisters in fire and law enforcement and are subject to the same images and situations that stick with us forever. Is EMS not just as important as fire and law enforcement?

All volunteer services have to pay for workers compensation insurance as well. With approximately 80% of the state covered by volunteer EMS services it is imperative that we have access to the same coverage as our full-time partners. We are subject to the same hazards whether they are physical, mental or emotional.

EMT's, whether career or volunteer, are medical professionals. We are the backbone of prehospital care in Wisconsin. When a call for help comes in, we all answer that call with pride. Heart attacks and car accidents do not distinguish between career and volunteer EMT's. The care of our first responders should also not be determined by whether we are law, fire, ems, career or volunteer.

We ask that you consider an amendment to include EMS to AB 569. Our volunteer EMT's well-being is depending on it.

Thank you,

A handwritten signature in black ink, appearing to read "Jamie Stephenson", with a long, sweeping underline.

Jamie Stephenson

Albany Area EMS

To the legislature of the state of Wisconsin regarding Assembly Bill 569:

First off, as both a retired volunteer firefighter and EMS professional in the great state of Wisconsin I thank you all for bringing forth this bill to the Senate floor. It is because of hard-working individuals like yourselves that hard-working public servants like me can continue to provide for both their families, their co-workers, and their communities.

I write this letter today because I bring forth the concern of many in the state of Wisconsin whom this bill is looking past. This is not something we as a state can look past or should look past. We have seen throughout our country the importance of mental health and what happens when those who are hurting do not receive the help that they so desperately need.

This bill is written to include law enforcement and firefighters, but it leaves out stand alone EMS agencies. There seems to be a huge disparity in the state of Wisconsin about the need for including EMS providers as I believe many times it is thought that EMS and firefighters act within the same agency. This however is not true.

In my time as an EMS provider I worked for mostly municipal agencies. In 20 years of service as an EMS I worked for 9 different agencies through the state of Wisconsin as an EMS provider practicing at levels varying from First Responder through Critical Care Paramedic. None of these agencies were career departments that also housed firefighters. None of these departments were departments that housed both firefighters and EMS together. Oftentimes what I witnessed were providers who may work in one capacity as well as another and offered their time to multiple departments. For instance, in my time volunteering with a fire department I was also a first responder that would respond to 911 emergency calls linked me to an entirely different department. Not all providers that do EMS will do firefighting. It is no different than the thought that just because one decides to be a firefighter does not mean that they will be a law enforcement officer. Doing multiple roles is the exception in public service, not necessarily the rule.

There is much diversity across our state, oftentimes not seen as part of the bigger picture. I have worked as far north as Douglas County, as far west as St. Croix County, and as far east as Manitowoc County. In each of these scenarios the care model was different. I can speak firsthand for the fact that many services in the western and northern part of our great state of Wisconsin are small town municipal services who run on a mostly volunteer paid capacity.

What concerns me about not including EMS in this bill is that there are so many providers being left behind. People that go to work everyday and volunteer in their communities at night are being threatened by the next time the pager goes off. Is this going to be the call that keeps them from going to work their normal job tomorrow? Could this be the call that keeps them from functioning for their family? What happens when they can't supply for their family and function because what they saw when the pager went off helping their community last night is now etched in their brain? Small town services are at an increased risk when you consider everyone knows their neighbor. What happens when the car crash they respond to is their neighbor's teenage daughter who is deceased?

I have my own PTSD story. Sadly, I spent years being embarrassed to talk about it. We are trained in the public service industry whether it be police, fire or EMS to be strong. You swallow it down and move on to the next call. That is how it gets you though. One day you have the call that changes it all. It's never

the same again. The thing that you lived and breathed to spend your life doing now paralyzes you with fear. You wake up in the middle of the night in a cold sweat reliving old calls of the people you couldn't save.

See, it doesn't just happen to law enforcement. It doesn't just happen to firefighters. The average life expectancy of an EMS provider is 5 years. Five years! For someone looking at a career, that's not very encouraging. I have people that I will never erase from my mind. The importance of Critical Incident Stress Debriefings is still not as commonplace as it should be.

I am passionate about ensuring that our EMS providers are covered because I don't want someone else to suffer my same story. I had to walk away from the only career I ever loved. I have not been back on an ambulance in almost a year and prior to that my call time on the service I was working for was very sporadic. I spent over 6 months after the call that changed everything shaking every time I went past the location of the call. Certain things present on the call that day would cause me to tremble whenever I would see them in public. That call brought up other things that haunted me from the past and eventually it all began to pile on.

To say as an EMS provider that my experiences were any less valid or important than that of a firefighter or law enforcement officer is just truly not fair. My life forever changed on a warm summer day in May 2016. I spent years attempting to bury it. My marriage dissolved and eventually I walked away from the only career I ever loved. I still miss it today, but I know I can never go back. I don't want others to have to walk this road. I don't want others to have to suffer in silence.

We must take care of everyone if we expect to continue the great work our public safety has done in this great state. When so much of our state is made up of separate agencies that come together to do the job, it would be wrong to leave anyone off of that bill.

In a time when there is an increasing number of suicides of public health professionals, we must do better. We must ensure that we take care of those who have taken care of us, our family, friends and loved ones. We need to be there for them so we can ensure that they will continue to be there for us into the future.

Thank you so very much for your time and your dedication to this PTSD bill.

Sincerely,

Sara L. Vnuk

Retired critical care paramedic
Retired volunteer firefighter
Serving the great state of Wisconsin

Reedsburg Area Ambulance Service



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From the desk of Director Joshua Kowalke

January 8, 2020

Representatives:

My name is Joshua Kowalke. I am the Director of Reedsburg Ambulance. I am also the immediate past President of the Wisconsin EMS Association, having served on the board over nine years. I have been in EMS for over 20 years starting as an EMT Basic and volunteer and now working as a Paramedic. I am proud to call EMS my profession. Prior to working full-time in EMS, I worked for 10 years as a Sheriff's Deputy. I also was on a volunteer fire department for a short time.

First, I want to thank those who created AB 569 to support Firefighters and police officers in their fight against PTSD. This bill is very forward-thinking and something that everyone should be able to get behind to support those who protect our communities. My concern is that EMS was entirely left out of this bill. Having worked as a Sheriff's Deputy and as a paramedic, I personally know that we respond to the same scenes and see the same tragedies. I have been on the same scenes as other police officers, firefighters, and EMT's where we see things that no one ever wants to see or should have to see. Still, we are all willing to come to work because we want to serve our communities. In Fire, law enforcement, and EMS we all share the same tragedies and have worked through the same emotions to get through the tragic event. I have personally seen my peers in fire, EMS, and law enforcement battle PTSD.

I would encourage you to amend this bill to allow for workman compensation benefits for EMS. This should include all EMS, not just services who are full-time. Volunteers EMT's see the same tragedies and all of EMS should be included in this bill.

Respectfully,

A handwritten signature in black ink that reads "J. Kowalke".

Joshua Kowalke

Director

Delivering the highest quality pre-hospital care for all we serve.