



Ohio Police & Fire Pension Fund

OHIO POST-TRAUMATIC STRESS FUND

for Public Safety

Abstract

Analysis and details for activation of benefits for public safety services diagnosed with PTSD after psychological injury in the course of employment.

December 2021
www.op-f.org



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Executive Summary


The Ohio Police & Fire Pension Fund (OP&F) is pleased to provide the General Assembly with this report as the foundation for activation of the *State Post-traumatic Stress Fund*, created by O.R.C. §126.65 (hereinafter PTS Fund). Creation of the fund demonstrates the Ohio General Assembly's long-established fidelity to public safety forces, by its commitment to address the gap in coverage for those officers who suffer from PTS as a result of their essential work.

Ohio medical experts specializing in mental injury from trauma agree and national treatment guidelines are clear that early identification and treatment of PTS yields positive outcomes, including recovery and return to work.

This report will: (1) summarize the medical experts on the appropriate treatment model; (2) identify the appropriate administrator; (3) analyze the potential costs with the data available; and (4) recommend a way forward through a five-year pilot program.

Recommendations and Conclusion

The Ohio Police & Fire Pension Fund Board of Trustees proposes the legislature assign an existing state agency with funds administration experience, to grant The Ohio State College of Medicine Department of Psychiatry and Behavioral Health funding, to administer a five-year pilot program for PTSD treatment for police and firefighters. A pilot period provides an opportunity to: gather baseline data by which future needs and costs can be more accurately projected, scale up established systems, learn intricacies of these claims, and ensure efficient administration. In addition, The Department of Psychiatry and Behavioral Health has the unique



expertise to provide top quality trauma treatment, the ability to scale to the program's needs, and the expertise to provide valid research data while maintaining HIPAA compliance.

It has been an honor for OP&F to work with the many professionals, advocates and stakeholders who have contributed to this report on behalf of the first responder community. We hope our recommendations will give the General Assembly the information, treatment model and options for administration to effectively address the gap in care for public safety forces with post-traumatic stress disorder (PTSD) associated with their work. OP&F appreciates the opportunity to assist the valued members of the safety forces in preserving their health.

Respectfully Submitted,

Mary Beth Foley

Mary Beth Foley, Executive Director, Ohio Police & Fire Pension Fund



Introduction

First Responder Shortages are Costly

Across the state of Ohio, police and fire departments are facing staffing shortages. In the short term, these shortages are leading to higher costs of overtime and increasing burnout.ⁱ


First Responders are leaving jobs faster than communities can hire and train replacements to meet the need. The continuing wave of retiring Baby Boomers, the shift in subsequent generations where workers hold an average of 12 jobs in their professional lifetime, the public image of law enforcement, lack of minority candidates, and the lengthy hiring process, are the main barriers to recruitment, according to several studies.

There is no easy solution. Municipalities are in competition with each other and sometimes larger departments, drawing from smaller pools of recruits.ⁱⁱ In the City of Columbus, more than 110 police officers left the department in 2021. Its training academy graduated 80 officers in the last class. In 2022, there are currently 45 recruits.ⁱⁱⁱ Ohio's largest city had only 34 graduates in its last firefighter training class.

Training safety forces is expensive. It is far more costly, and time consuming, to recruit and train an officer than to retain one. Therefore, retention of the safety forces must be a priority. The best option is to provide the support first responders need and get them back to work so the community does not lose the benefit of experienced personnel. Knowing they have the support of the community and will be protected from on-the-job injury can be a recruitment tool. And ensuring the work environment is functioning optimally is preventative against duty-related critical incidents and negative life events outside the police and fire services.^{iv}

Goal: Return to Work; not Permanent Disability.

The Ohio medical community recommendations are for individualized treatment plans designed around trauma-focused therapies that have the greatest amount of scientific support and maintain work-life routines as much as possible. This aligns with the national standards for treating PTSD. This approach will increase the speed of recovery for the patient, lower medical



costs, and provide the long-term benefit of healthier, experienced responders who can stay in the field, employed, and serving their communities longer.

People who enter these professional safety roles are passionate about their work. Our shared goal is returning them to the work for which they were trained, whenever possible.

Permanently Disability from PTSD is rare.

Permanent disability as a result of PTSD is rare, when treated. Where there is permanent disability, the existing state retirement systems provide support for their public safety members. None of the five Ohio retirement system pension trusts has expertise in administering an active employee benefit as contemplated in O.R.C. §126.65. Each retirement system is statutorily charged with post-employment benefit administration and are fiduciaries to the members of their funds. Retirement systems are not, therefore, suited to administer the benefit.

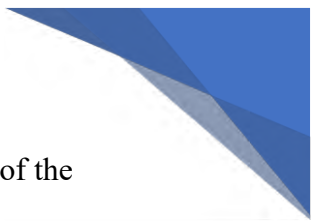
On-the job psychological injuries often have no associated physical injury.

The Ohio General Assembly recognized in the creation of the PTS Fund that on-the-job psychological injuries often have no associated physical injury.

Currently, 39 states allow compensation for psychological-only injury on the job for police and firefighters under workers' compensation laws. In Ohio, and a minority of states, an on-the-job trauma-related psychological injury is only recognized by workers compensation when accompanied by an associated physical injury. The medical experts agree that PTSD is a separate medical condition that does not generally occur with an accompanying physical injury.

When a member of a public safety force sustains a physical injury as well as a psychological injury on the job, lost work time and medical costs are compensated by the Ohio Bureau of Workers' Compensation. In rare cases where PTSD is permanently disabling, members of state retirement systems may qualify for disability benefits. A gap occurs when a first responder suffers an on-the-job psychological trauma injury without a corresponding physical injury and requires assistance with medical bills or lost wages. OP&F applauds the Ohio General Assembly in filling that gap by creation of the PTS Fund.

As is more fully discussed in this report, the workers compensation system is the most appropriate administrator of this benefit. However, the Ohio BWC is reluctant to take on the



program and there is nearly universal stakeholder interest in locating administration of the program elsewhere.

Limited Baseline Information

The lack of well-defined elements in the statute makes it difficult for actuarial projection of the frequency, volume and cost of PTS Fund claims. Which positions are covered, how many of those positions exist in Ohio, how many of those individuals in the position suffer a psychological injury as a result of their work? We suggest for the pilot period that the definition of “public safety officer” as detailed on page 7-8 of this report which is modeled after the Ohio Public Safety Officers Death Benefit Fund. Post pilot, the General Assembly can expand the definition to additional positions.



Definitions

Acute Stress Reaction (ASR) is a transient normal reaction to traumatic stress and is not a DSM-5 diagnosis, although symptoms may be temporarily debilitating. Onset of stress-related signs and symptoms may be simultaneous or within minutes of the traumatic event or may follow the trauma after an interval of hours or several days. In most cases, symptoms will resolve rapidly with simple measures, such as reassurance, rest, and ensuring safety.

Acute Stress Disorder (ASD) can also occur after exposure to a traumatic event. Symptoms must last at least three days but less than one month after exposure to the traumatic event for an individual to be eligible for this diagnosis. In addition, they must exhibit at least nine out of 14 possible symptoms that are nested within five diagnostic clusters in the DSM-5.

AMA Guides to the Evaluation of Permanent Impairment (AMA Guides), Sixth Edition, is the publication of the American Medical Association which defines a process for assessing permanent impairment.

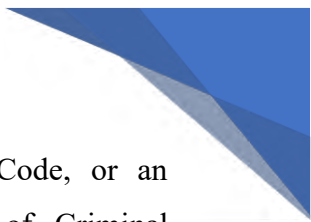
DSM – 5 is the Diagnostic and Statistical Manual of Mental Disorders, fifth edition, published by the American Psychiatric Association. This is the authoritative volume that defines and classifies mental disorders to improve diagnoses, treatment, and research.

Law enforcement officer means an officer commissioned to make arrests, execute warrants, and preserve the peace upon lands under the control of the governmental entity granting the commission.

Post-traumatic stress disorder (PTSD) is a psychiatric disorder that may occur in people who have experienced or witnessed a traumatic event such as a natural disaster, a serious accident, a terrorist act, or who have been threatened with death, violence, or serious injury.^v

Public safety officer is a full-time employee engaged in the work of any of the following:

- An active member of the Ohio Police & Fire Pension Fund (OP&F), including a member of the fund who has elected to participate in the Deferred Retirement Option Plan established under section 742.43 of the Revised Code;
- An active member of the Ohio Highway Patrol Retirement System (HPRS) including a member who is participating in the deferred retirement option plan established under section 5505.50 of the Revised Code;
- An active member of the Ohio Public Employees Retirement System (OPERS) who is one of the following:
 - A county sheriff or deputy sheriff;
 - A police officer in a municipal corporation or township;
 - A firefighter employed by the state, an instrumentality of the state, a municipal corporation, a township, a joint fire district, or another political subdivision.
 - A park district ranger or patrol trooper who is a peace officer commissioned to make arrests, execute warrants, and preserve the peace upon lands under the control of a board of park commissioners of a metropolitan, county, or township park district created under the authority of Chapter 511. or 1545. of the Revised Code.
 - A law enforcement officer of the Ohio Department of Natural Resources including:
 - a forest officer designated pursuant to section 1503.29 of the Revised Code,
 - a preserve officer designated pursuant to section 1517.10 of the Revised Code,
 - a wildlife officer designated pursuant to section 1531.13 of the Revised Code,
 - a park officer designated pursuant to section 1541.10 of the Revised Code,
 - a state watercraft officer designated pursuant to section 1547.521 of the Revised Code,
 - An Ohio Department of Public Safety Enforcement Agent,
 - A law enforcement officer of parks, waterway lands, or reservoir lands under the control of a municipal corporation,
 - A law enforcement officer of a conservancy district created under the authority of Chapter 6101. of the Revised Code,
 - A state university law enforcement officer,

- 
- An investigator, as defined in section 109.541 of the Revised Code, or an investigator commissioned as a special agent of the Bureau of Criminal Identification and Investigation;
 - A drug agent, as defined in section 145.01 of the Revised Code,
 - A gaming agent, as defined in section 3772.01 of the Revised Code,
 - An employee of the Ohio Department of Taxation who has been delegated investigation powers pursuant to section 5743.45 of the Revised Code for the enforcement of Chapters 5728., 5735., 5739., 5741., 5743., and 5747. of the Revised Code.

Traumatic Event A traumatic event is an event (or series of events) in which an individual has been personally or indirectly exposed to actual or threatened death, serious injury, or sexual violence.^{vi} There is a wide spectrum of psychological responses to traumatic events, ranging from normal, transient, non-debilitating symptoms to a transient ASR to an acute, time-limited and clinically-significant clinical disorder (ASD) to a persistent disorder (PTSD) that may become chronic, if untreated.



Medical Analysis

The impact of traumatic experiences is unique in the workplace of safety forces. When the call comes, they respond. And they seldom know exactly what they will find when they arrive. Whether it is a direct threat to themselves or others, severely injured people, death, collecting human remains, processing the details of a scene of a violent crime, these are just some of the critical incidents that public safety officers are trained to handle, to remove the threat and reduce the danger. They can be called to many traumatic incidents in a week, day, or shift.


Trauma related mental health problems can result from exposure to actual or threatened death, serious injury, or sexual violence. Safety forces are particularly at risk because their professional life constitutes repeated or extreme exposure to traumatic events.

First responders are highly trained. And in general, with more experience they become better at dealing with response. However, they repeatedly experience and witness extreme trauma on the job. A traumatic incident may lead to psychological injury, including PTSD without any associated physical injury to the law enforcement officer or firefighter, a fact universally agreed upon by the medical profession, as stated in *AMA Guides to the Evaluation of Permanent Impairment (AMA Guides), Sixth Edition*, DSM-5 of the American Psychiatric Association, and VA/DoD Clinical Practice Guidelines.^{vii}

Range of Response to Trauma

People experience a range of normal emotions after a traumatic event. It is natural to have symptoms of trauma-related stress including anxiety, fatigue, hyper-vigilance, problems sleeping, impatience, withdrawal, among others.

Trauma-related stress response varies by individual, the incident, and how the incident impacts the individual. There is no way to predict the impact a traumatic event will have on any one person. In some cases, individuals can manage the effects on their own, some rely on the support of family and friends. Over time, 80% of people see their response to trauma diminish.



However, when effects are severe because the trauma is too great or there is an accumulation of impact from traumatic events, professional help is needed.

Trauma-related stress occurs on a continuum. Some people experience an Acute Stress Reaction. If it persists or worsens, it can become Acute Stress Disorder. The Diagnostic and Statistical Manual of Mental Disorders, 5th edition (DSM-5) is the handbook used by health professionals in the United States and much of the world to diagnose mental disorders. Acute Stress Disorder presents itself as hyper-arousal, intrusions (recurrent involuntary distressing memories of the event; recurrent distressing dreams; flashbacks), avoidance, and psychic numbing. If the physiological, emotional, cognitive and behavioral changes last for more than a month and continue to impair daily functioning, the diagnosis becomes Post-traumatic Stress Disorder (PTSD). PTSD requires treatment or it can lead to negative outcomes, even death.


Untreated PTSD is unlikely to disappear on its own and can contribute to other problems that increase the likelihood a person will be unable to function on the job. Studies have shown that drinking to cope, depression, suicide and other crippling effects of untreated trauma-related mental health problems can be avoided, thus keeping these highly skilled, highly trained professionals on the job. Untreated, these severe issues could jeopardize the effectiveness of the safety forces in our local communities.

Early Treatment Improves Outcomes

Mental health professionals agree that treatment must not wait. Though it is unclear why some people get PTSD and others do not, early intervention can facilitate recovery.

Joel S. Steinberg, M.D. is board certified in psychiatry and neurology and is affiliated with University Hospitals of Cleveland. He specializes in forensic psychiatry and Dr. Steinberg is head of the Disability Evaluation Panel at OP&F and has been evaluating and treating police officers and firefighters for more than two decades, including conducting disability and impairment evaluations for OP&F. “Trauma-related mental health problems do not need to be permanently disabling,” according to Dr. Steinberg, “but that may be a consequence of delayed intervention.”

Appropriate interventions should take place as soon as possible after a traumatic exposure for an optimal outcome. Supportive and safe therapeutic treatment including a suitable combination of psychotherapy and pharmacotherapy, along with a plan for a rapid return to the



duties and responsibilities appropriate to the individual person leads to the most optimal outcomes^{viii}

Craig Bryan, PsyD, ABPP, a board-certified psychologist and Director of the Trauma and Suicide Prevention programs at The Ohio State University College of Medicine, Department of Psychiatry and Behavioral Health, echoed the sentiments, “We can effectively treat PTSD for the majority of people.”

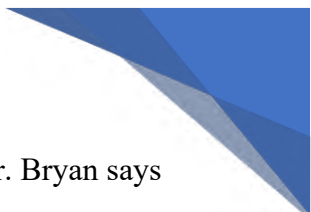
Dr. Bryan equates PTSD to high blood pressure. Everyone has stress, like everyone has blood pressure. But there is a line above which high blood pressure becomes hypertension. Hypertension is treated to reduce the pressure to reduce negative outcomes, even death. The same is true, he says, for PTSD.

[Individualized, Intensive Treatment Plans Are Proven Effective.](#)

The best treatment is the treatment that works for the individual. Everyone processes trauma and stress differently and each of the safety forces encounters different traumas. For example, for police officers, trauma is more likely to include violence or aggression. Firefighters may experience lifesaving trauma. Each experience is different and impacts the individual differently. Treatment plans should be individualized, according to the professionals. There are scientifically supported guidelines which advise the individualized treatment.

The Veterans Administration/Department of Defense (VA/DOD) guidelines strongly recommend individualized, manualized trauma-focused psychotherapy as first-line treatment and non-trauma-focused psychotherapy or medication (sertraline, paroxetine, fluoxetine, or venlafaxine) when the former is not readily available or preferred. The guidelines for PTSD treatment are similar across leading authorities: VA/DOD, National Academies of Science, ASTSS Published Guidelines, American Psychological Association Guidelines, American Psychiatric Association Guidelines.

At The Ohio State University, the Suicide and Trauma Reduction Initiative for Veterans (STRIVE) is a leading treatment and research site for military personnel, veterans, first responders, and their families. Treatment is designed for an individual to attend once a week for 12 weeks. Dr. Bryan reports that 65-70 percent of participants experience a significant reduction in symptoms. “They walk away feeling better, keeping their jobs.”



Daily treatment for two weeks at STRIVE, has shown even better results. Dr. Bryan says the average cost of treatment is \$3,000 - \$5,000 per person using trauma-focused psychotherapies.

The National Center for PTSD is the world's leading research and education center of excellence. It recognizes trauma-focused psychotherapies, sometimes in conjunction with medication, as the most highly recommended treatment for PTSD. The Center found that 53 percent of the people who receive psychotherapy improve to the extent they no longer have the PTSD diagnosis.^{ix} Twelve weekly sessions of 60-90 minutes each can save years of suffering and prevent people from harming themselves and can restore functionality.

Step Approach to Treatment


Health care professionals suggest a stepped approach to care directed by a certified practitioner following professional guidelines. Trauma-focused therapies that have the greatest amount of scientific support are prolonged exposure, cognitive processing therapy, and cognitive behavioral therapies. Beginning with the most efficacious, which is also the shortest-term and least expensive, and stepping up treatment from there in cases where psychotherapy is not achieving a significant reduction in symptoms is the recommended approach. If these therapies can reduce the symptoms in all but 25-33 percent of cases, then those are the cases which require a move to the next level of treatment.

Only after exhausting the range of known, scientifically effective treatments available would a person be considered permanently disabled from PTSD.

Location of Treatment

Treatment for trauma-related mental health is currently available for safety forces at the most reputable health care institutions. Participation is limited partially due to lack of funding and partially due to the stigma of mental health care, treatment.

There is a stigma associated with mental health and treatment for mental health issues that prevents many safety professionals from getting the help they need. Misinformation that a PTSD diagnosis is career-ending also stands in the way of many police and fire professionals from getting care. Timely treatment from medical professionals specifically trained to deal with PTSD can be a cure that returns the individual to work and family. That is why it is important that police officers



and firefighters who seek treatment not be further stigmatized in the actions associated with that treatment.

The General Assembly has assured in this legislation (O.R.C. 126.65) that no officer will lose their job for seeking treatment. Employers must not limit work assignment because the employee is seeking treatment. This is a health diagnosis, and with it comes the HIPAA protections associated with any medical situation. It is important to ensure that any policy will provide care and healing rather than re-traumatizing.

The community has invested a great deal in its best sworn officers. Allowing them to heal and continue their service is the best show of support.

Clinicians stress that the individual treatment plan should consider whether someone would do well to leave their familiar surroundings and focus on initial treatment away from home, or receive treatment close to home, where they can stay on the job and their normal environment, or a combination. For circumstances in which an individual may be a danger to themselves or others, or it may not be possible for them to immediately return to the job. Treatment at a distance from home may be one consideration in a limited number of cases.

One program that takes a hybrid approach is Post Critical Incident Seminars, held in Ohio since 2017. Steven Click is the Director of First Responder Wellness at the Ohio Department of Public Safety. He says people come from around Ohio to Columbus for the program. Based on a national program developed for police, firefighters, EMS, dispatchers and corrections officers, participants attend an immersive three-day event with a spouse, friend, or family member from their support system. The seminars are held four times per year and the total cost of accommodating 30-32 participants is about \$35,000. The seminar is funded through grants and donations, though some departments pay to send an employee.

Together with others in similar situations and with licensed clinicians, public safety professionals learn to evaluate, communicate, and manage the symptoms of stress, loneliness, grief, and other symptoms associated with a traumatic event(s) while learning about how to address addiction issues. After the initial seminar, they are referred to a trauma-focused clinical care near their home, if necessary.



Peer Support

First responders are working diligently to mitigate the impact of trauma among their ranks. The International Association of Firefighters (IAFF) takes a two-pronged approach: prevention and treatment.

In the past six years, 83 Ohio fire departments have put 364 firefighters through IAFF peer support training covering everything from resiliency to suicide prevention. When the signs and symptoms of post-traumatic stress appear, the trained support firefighter peers connect with clinical professionals.

The IAFF Center of Excellence for Behavioral Health, Treatment, and Recovery is a 64-bed facility in Maryland serving members of the IAFF with inpatient and outpatient treatment for a range of psychological health diagnoses. Another Center will open in California in 2022. And an addiction treatment center opened recently in Columbus, Ohio for uniformed service people.


Dr. Abigail Morris is the Medical Director at the Maryland Center. Dr. Morris works with public safety personnel who suffer from Complex PTSD. Rather than a specific incident, CPTSD develops from a chronic, persistent exposure to trauma. She says the accumulation of trauma often comes with an acceleration of symptoms.

Most of these public safety people don't have that one fall through to the basement when they have broken all their bones. Instead, they have the memories of every baby they have seen drown, each person they shocked back to life who didn't make it, every person they have pulled from a fire.

-Abby Morris, MD

IAFF Center of Excellence for Behavioral Health Treatment and Recovery

The IAFF residential program averages 32-36 days on the campus at a cost of \$20,000 - \$25,000 for a 30-day stay. Then, robust case management support identifies a clinician in the firefighter's home community and appointments are set to continue care in the week they return.



Dr. Morris likens PTSD recovery to diabetes. After diagnosis and initial intensive treatment, a diabetic can have a clear blood test. They will still have the vulnerability, and as long as the condition is managed, they can lead a great life.

Retaining Experienced Safety Forces is a Communitywide Benefit

Health care providers agree that quick and early intervention, intense short-term treatment, and maintaining the work-life routines as much as possible, speeds recovery and leads to better outcomes for the patient, lower medical costs for the funders, and the long-term benefit of healthier responders who can stay in the field, employed, and serving their communities.

These are highly skilled, trained individuals and proper diagnosis and treatment enables them to continue their careers.

The health of the individual who has been exposed to traumatic stress on the job is as important to the health of a safety force in its local community as it is to the individual.

Medical Conclusion

Psychological traumatic stress does not have to be a career-ending, permanently disabling condition. The goal of administering the Ohio Post-traumatic Stress Fund should be to provide supportive and safe therapeutic combinations of psychotherapy and pharmacotherapy suitable to the individual, along with a plan for a rapid return to the duties and responsibilities of work, home, and community, which will lead to the most optimal outcomes.^x

The experts interviewed for this report agree that with treatment, fewer people suffer long-term crippling symptoms or death. Where there are trauma-related mental health injuries, the majority are treatable and do not result in permanent disability.

Early diagnosis, evaluation, and treatment by a psychiatrist or psychologist with certification and training in trauma-related mental health using scientifically supported treatments that follow the VA/DOD Guidelines, the International Society for Traumatic Stress Studies (ISTSS) Prevention and Treatment Guidelines, or the Guidelines of the American Psychological Association or the American Psychiatric Association.



Actuarial Analysis

There is limited data with which to make an accurate assessment of potential size, scope and amount of funding required for the PTS Fund. Two actuarial studies determine there is no baseline data by which to estimate future costs with any certainty. Limited information about future costs of the benefit is one stakeholder objection to locating the program at Ohio BWC.

BWC Actuarial Conclusions

The Ohio BWC, using its actuarial personnel, did an analysis of the then-pending legislation in August of 2019. That report can be found in Appendix C of this report. The Ohio BWC found that despite “extensive research of publicly available related studies and their underlying assumptions,” its conclusions aligned with OP&F actuaries in that the potential use of benefits “is difficult to predict with any degree of precision due to significant data limitations...”

OP&F solicited additional input from Ohio BWC during this study year. Those communications are also included in Appendix C; its position is unchanged.

OP&F Actuarial Conclusions

Am. Sub. H.B. No. 308 of the 133rd General Assembly was required a disinterested third-party actuary to conduct the study by preparing an actuarial valuation of the funding requirements of the state Post-traumatic Stress Fund established in O.R.C. §126.65.

A Request for Proposals was issued. No proposals were received. The bill was amended to allow OP&F’s actuarial firm Cavanaugh Macdonald Consulting, LLC to conduct the study. The analysis by Cavanaugh Macdonald Consulting provides two views. First, the actuarial valuation based on available information. The OP&F Board also asked for an actuarial valuation based on a recommendation of a five-year pilot program contemplating the current treatment philosophy of intensive therapy with returning to work as soon as possible during treatment and recovery. Both evaluations were completed in accordance with actuarial standards of practice promulgated by the actuarial standards board of the American Academy of Actuaries. The report follows.



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Post-Traumatic Stress Disorder Fund Report

Ohio Police & Fire Pension Fund

Actuarial Analysis for 2021



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November 24, 2021

Board of Trustees
Ohio Police & Fire Pension Fund
140 East Town Street
Columbus, Ohio 43215

Members of the Board:

Cavanaugh Macdonald (CMC) is pleased to present this report on the results of the actuarial analysis of the Ohio Police & Fire Post-Traumatic Stress Disorder Fund (OP&F) to fulfill House Bill No. 308, as amended by Section 126.65 of the Ohio Revised Code (ORC). The analysis takes into account all of the promised benefits to which members are entitled.

The purpose of the analysis is to determine the costs associated with House Bill No. 308, as amended by ORC Section 126.65. Use of this report for any other purpose may not be appropriate and may result in mistaken conclusions due to failure to understand applicable assumptions, methodologies, or inapplicability of the report for that purpose. CMC will not accept any liability for any statement made about the report without prior review by CMC.

The undersigned are familiar with the near-term and long-term aspects of other postemployment benefit plan valuations and collectively meet the Qualification Standards of the American Academy of Actuaries necessary to render the actuarial opinions contained in this report. All sections of this report, including any appendices and attachments, are considered an integral part of the actuarial opinions.

To the best of our knowledge, no executive or employee of CMC providing services to OP&F has any direct financial interest or indirect material interest in OP&F. As a result, we believe that there is no relationship existing that might affect our capacity to prepare and certify these estimates for OP&F's Plan for 2021.

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Board of Trustees
November 24, 2021
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If you have any questions, please call us at 678-388-1700.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'LL'.

Larry Langer, ASA, FCA, EA, MAAA
Principal and Consulting Actuary

A handwritten signature in black ink, appearing to be 'Alisa Bennett'.

Alisa Bennett, FSA, EA, FCA, MAAA
President

A handwritten signature in black ink, appearing to be 'Youveak Yeng'.

Youveak Yeng, ASA, MAAA
Senior Actuary

AB:yy



House Bill No. 308, as amended by Section 126.65 of the Ohio Revised Code (ORC), indicates that an actuarial analysis should include the following:

- A description of lost wage compensation and medical benefit amounts evaluated;
- A projection of the number of participants eligible for lost wage compensation and medical benefits from the fund;
- A projection of the potential claims per year;
- A cost comparison showing the projected administrative costs differentials based on the OP&F Board creating a program versus contracting with other private and public entities;
- A cost comparison as to which, if any, state retirement system or other administrator is best suited to administer the fund;
- A review of how other states administer funds that are similar to the fund;
- An analysis of whether an administrative appeals process is necessary or useful to the resolution of claims for compensation, benefits, or both from the fund;
- If it is determined that an administrative appeals process is necessary or useful to the resolution of claims, an analysis of which entity is best suited to administer the process;

To undertake an analysis of the OP&F Post-Traumatic Stress Disorder Fund, CMC requested the following information:

- Census data records for police, firefighter, emergency medical services (EMS), emergency medical technicians (EMT), county sheriffs, and other first responders who are eligible for benefits
- A description of medical treatments covered for post-traumatic stress disorder (PTSD)
- Salary information
- Historic annual claims data for PTSD, including breakouts for PTSD with physical injury claims

Since the information was not available, CMC worked cooperatively with the Bureau of Workers Compensation (BWC) and prepared an analysis with methodologies and assumptions described below.

Census Data

The number of first responders was estimated by adjusting the number of counts in the 2019 BWC estimate for changes in the total police and firefighter active membership counts used in the OP&F Pension Funding report from 2019 to 2021.

a)	2019 Ohio First Responders provided by BWC	80,100
b)	2019 Police and Fire Active Membership Counts	28,904
c)	2021 Police and Fire Active Membership Counts	29,138
d)	2021 Ohio First Responders	80,700
	(a * c / b, rounded to nearest hundred)	



PTSD Incidence Assumptions

A study produced in 2006 stated that between 15% to 20% of EMS personnel are expected to report PTSD.¹ An additional study from 2018 indicated that law enforcement officers develop PTSD at rates ranging from 6% to 32%. EMTs have rates ranging from 9% to 22%. Firefighters have rates ranging from 17% to 32%.² Based on applying these statistics to the proportionate distribution of job types shown in BWC's 2019 report and acknowledging that the rates cited are somewhat impacted by the reluctance to report PTSD, CMC assumed an average of 25% of the Ohio First Responders may have PTSD.

A study from the American Psychiatric Association (APA) showed that PTSD affects about 3.5% of U.S. adults per year. In addition, one in 11 will be diagnosed with PTSD in their lifetime.³ These statistics implied an emergence assumption of about 39%. BWC assumed 38% for PTSD emergence. Using all of this information, CMC assumed an annual rate of 30%.

Based on a study related to PTSD, actuaries at the Washington Department of Labor & Industries presumed that 38% of those with PTSD would be willing to report it and make a claim for treatment. This assumption was used in Washington's PTSD benefits for Law Enforcement Officers and Firefighters study.⁴ An additional study indicated that approximately 60% of military personnel who experience mental health problems do not seek help, yet many of them could benefit from professional treatment. This implied that approximately 40% of personnel sought treatment.⁵

Low utilization for PTSD agreed with Ohio's observations of recent PTSD utilization along with the stigma and reluctance associated with reporting PTSD among first responders. As a result, CMC assumed that 40% of those with PTSD in any given year will file a claim.

¹ Extreme Stress: Promoting Resilience Among EMS Workers, Randal Beaton http://archive.northwestpublichealth.org/docs/nph/f2006/beaton_f2006.pdf and Post traumatic Stress Disorder in the National Comorbidity Survey, Kessler et al 1995 https://www.researchgate.net/profile/Michael-Hughes-25/publication/15707358_Posttraumatic_Stress_Disorder_in_the_National_Comorbidity_Survey/links/5a6878c40f7e9b7a554bf717/Posttraumatic-Stress-Disorder-in-the-National-Comorbidity-Survey.pdf

² Conceptualization, Assessment, and Treatment of Traumatic Stress in First Responders: A Review of Critical Issues, Lewis-Schroeder et al <https://pubmed.ncbi.nlm.nih.gov/29975339/>

³ What Is Posttraumatic Stress Disorder?, Felix Torres, <https://www.psychiatry.org/patients-families/ptsd/what-is-ptsd>

⁴ Posttraumatic Stress Disorder: The Burden to the Individual and to Society, Ronald Kessler https://www.psychiatrist.com/wp-content/uploads/2021/02/16142_posttraumatic-stress-disorder-burden-individual-society.pdf

⁵ Stigma as a Barrier to Seeking Health Care Among Military Personnel With Mental Health Problems, Sharp et al. <https://pubmed.ncbi.nlm.nih.gov/25595168/>



Based upon 80,700 first responders in Ohio, we project approximately 2,400 PTSD claims per year.

a) 2021 Ohio First Responders	80,700
b) Average PTSD Incidence	25%
c) PTSD Emergence	30%
d) PTSD Reporting	40%
e) Annual PTSD Incidences	2,400
(a * b * c * d, rounded to nearest hundred)	

Wage Replacement and Claim Costs

Per capita costs were based upon expected wage replacement and expected per member per year medical and prescription drug claims. We noted that the duration of benefits was one year from the date of first receipt based on House Bill No. 308.

Based on BWC’s report in 2019, the expected average annual first responder wage replacement benefit was \$33,000. CMC then trended this amount using a salary increase assumption of 3.25% per year to obtain the 2021 wage replacement of \$35,000. The 2021 OP&F pension valuation indicated that the average salary for police and firefighters is about \$83,000. CMC also found that the average EMT salary is about \$37,000.⁶ To develop the average 2021 wage, CMC weighted the trended BWC wage by 40%, the 2021 OP&F pension valuation wage by 20%, and the average EMT salary from salary.com by 40%. This resulted in CMC assuming an average 2021 wage of \$45,000.

A study performed by the National Institute of Mental Health suggested that some people recover within six months while others have symptoms for more than a year.⁷ Since some people may recover and not require full wage replacement, CMC applied 75% to the average 2021 wage of \$45,000 to obtain a wage replacement of \$34,000.

Estimated medical and prescription drug costs were developed from an Ohio State University program called STRIVE which indicated that the average cost of treatment was about \$3,000 - \$5,000. This is consistent with the cost of other treatment programs available around the state which indicated that PTSD costs range between \$3,000 to \$6,000 per year. CMC assumed that the average cost per year was \$5,000.

To provide a range of estimates, CMC calculated low and high estimates using different average costs per year. The low estimate assumed that the average cost per year was \$3,000 while the high estimate assumed that the average cost per year was \$10,000, which was provided from BWC’s 2019 estimate.

⁶ Average salary for EMTs. <https://www.salary.com/research/salary/alternate/emt-salary>

⁷ Post-Traumatic Stress Disorder. <https://www.nimh.nih.gov/sites/default/files/documents/health/publications/post-traumatic-stress-disorder-ptsd/20-mh-8124-ptsd.pdf>



Following is a table detailing expected wage replacement, expected per member per year medical and prescription drug claims, and expected annual PTSD costs with a range of low and high estimates.

a) Annual PTSD Incidences	2,400
b) Wage Replacement Benefit	\$ 34,000
c) PTSD Claim Cost	\$ 5,000
d) Annual PTSD Costs	\$ 94,000,000
(a * [b + c], rounded to nearest million)	
Range of Estimates	
Low Estimate	\$ 89,000,000
High Estimate	\$ 106,000,000

Conclusions

Based upon the assumptions presented above, CMC estimates the costs of House Bill No. 308, as amended by Section 126.65 of the Ohio Revised Code (ORC), to be \$94 million annually with a range of \$89 million to \$106 million.

In order to reconcile the different philosophies on the treatment model and associated expenses, the OP&F Board recommends a five-year pilot and directed CMC to analyze and accumulate data and observe trends after which current estimates will be refined.

A range of results, different from those presented in this report could be considered reasonable. Future actuarial measurements may differ significantly from the current measurements presented in this report due to the emergence of additional data or information regarding the following:

- census data
- wage amounts and replacement benefits
- PTSD incidences, emergence, and reporting
- summary plan descriptions
- claims information
- program experience differing from that anticipated by the assumptions

Any changes in assumptions used for these measurements and/or changes in group benefits program provisions or applicable law will impact results. Benefit models necessarily rely on the use of approximations and estimates and are sensitive to changes in these approximations and estimates. Small variations in these approximations and estimates may lead to significant changes in actuarial measurements. Since the potential impact of such factors is outside the scope of a normal annual actuarial valuation, an analysis of the range of results is not presented herein. This report does not consider all possible scenarios.

The table below shows an alternate estimate utilizing a lower wage replacement benefit.



Estimate of Benefits under 5-Year Pilot Proposal

It is our understanding that Ohio will implement a two-week in treatment plan with follow-up visits under a five-year pilot program. This intensive treatment should result in quicker return to work scenarios, which would lower the wage replacement benefit. Therefore, instead of the wage adjustment factor of 75% noted above, CMC estimated an alternate adjustment factor of 50%. This resulted in a wage replacement benefit of \$22,500 and an estimate of \$66 million with a range of \$61 million to \$78 million.

a)	Annual PTSD Incidences	2,400
b)	Wage Replacement Benefit	\$ 22,500
c)	PTSD Claim Cost	\$ 5,000
d)	Annual PTSD Costs	\$ 66,000,000
	(a * [b + c], rounded to nearest million)	
	Range of Estimates	
	Low Estimate	\$ 61,000,000
	High Estimate	\$ 78,000,000



Administration of the Post-traumatic Stress Fund

With passage of O.R.C. §126.65, the General Assembly made Ohio the 40th state to provide Post-Traumatic Stress Disorder (PTSD) presumptive coverage for public safety members. Twenty-five states currently provide benefits for psychological injury and an additional 14 states recognize the unique nature of the work environments of police and firefighters and provide benefits for psychological trauma injuries to first responders, specifically and uniquely. Most states have passed or expanded PTSD policies and coverage for public safety officers since 2018.^{xi}

While treatment of PTSD is sorely needed, the addition of PTSD coverage for this select group of state/municipal employees introduces a new arena of care, which is less focused on the traditional physical treatment of workers' comp care and is more focused on mental health treatment.

--OPTUM Workers' Comp Blog


All 39 states that provide benefits administer the benefits through the state workers compensation system.

A legal summary of how the 50 states across the country handle benefits eligibility for psychological injury to public safety professionals was conducted for this report by Frost Brown Todd Attorneys, Columbus, Ohio and can be found in Appendix A.

The Ohio Bureau of Workers' Compensation

States have administered workers' compensation insurance programs since the early 1900s. Ohio's workplace insurance program began in 1912 and today, the Ohio BWC provides medical and compensation benefits for work-related injuries, diseases, and deaths.^{xii}

State worker compensation benefit systems were established to provide financial relief to workers injured on the job, to help them recover, while protecting employers from lawsuits from on-the-job injuries. Employers pay a premium to insure benefits for active employees.^{xiii}



The PTS Fund, based on the nature of the disease itself, is intended to provide benefits for the worker to heal and restore the worker to work. If a public safety worker suffers a psychological injury and a physical injury, the benefits are administered by the Ohio BWC not through the PTS Fund, according to law. No state administers on-the-job physical and psychological injuries through separate systems.

The survey of states and the underlying history of worker compensation makes it clear the Ohio BWC is best situated to administer active employee benefits.

Public Pension Funds

O.R.C. §126.65 and its predecessor HB 308 contemplate a public pension fund as a possible administrator of the PTS Fund. Public pension funds provide benefits for members post-employment, through retirement or permanent disability. Each pension system is familiar with the needs of its members, no pension system serves all categories of public safety employees identified in the underlying legislation. Some categories of workers may not be currently covered by the existing public pension systems. The public pension funds have neither systems nor staff experience in administering benefits to active workers. In this way, all pension funds are similarly situated. Public pension funds are not suited to administer benefits to active workers.



Stakeholder Consultation

OP&F solicited input from the Ohio retirement systems that serve the members of public safety forces, organizations representing employers, and associations of local governments. Conversations with stakeholder groups listed in the legislation took place for more than a year, encouraging participation and input regarding the implementation of O.R.C. §126.65.

The Ohio Retirement Study Council (ORSC) staff was also invited to comment.

The Ohio Chamber supports providing more treatment options for peace officers, firefighters, or emergency medical workers diagnosed with PTSD. However, benefits should be granted outside of Ohio's Worker's Compensation System ...

-- Ohio Chamber of Commerce


Some opted to remain neutral, the majority support benefits coverage for police and firefighters for recovery of psychological trauma injuries because of their duties.

The majority of stakeholder groups do not support the Ohio BWC administering the benefit. There were three main reasons expressed: concern about an increase in premiums, concern about expansion of coverage for other workers, and slow response and/or lack of efficiency in administering benefits for an injury of this type where timely response is essential and time off the job is typically short-term. [See Appendix B]

We do not oppose PTSD benefits for Police and Fire. We have no preference to administrator as long as it is not BWC.

--National Federation of Independent Business

Some stakeholder groups expressed concerns that there could be expansion of benefits beyond police and firefighters to a wide range of employees, even beyond the scope of public



safety. The concern is centered on the inability to anticipate the size, scope, and cost of the coverage. The range of undefined job classifications in the underlying legislation (HB 308) should be more specifically defined and clarified.

The research shows that among the 15 states where laws limit the psychological injury to police and fire, first responders, or public safety, there has not been widespread expansion to other job categories.



An Alternative Approach

While the Ohio BWC is the logical agency to administer the benefits, it is clear that stakeholders do not desire that result.

Ohio Police and Fire Pension Fund

Full-time police and firefighters are members of the OP&F and when the employment relationship ends due to retirement or permanent disability, OP&F ensures a secure future for its members. None of the state retirement funds currently provide benefits to employees still on the job. Active employees and retired/disabled pensioners are not alike. Most of the job categories listed in the underlying PTSF legislation do not have an existing relationship with OP&F, nor does OP&F have familiarity with their training, licensing, and work environments. OP&F does not have a system in place to take application, review, and adjudicate claims of this nature. For these reasons, OP&F is not suited to administer the PTS Fund. Other state retirement systems with public safety members, such as the State Highway Patrol Retirement System and the Ohio Public Employees Retirement System, are similarly situated and equally not suited to administer an active employee benefit.

Appendix D is a resolution passed by the OP&F Board of Trustees addressing the issue of administration of this benefit.

Pilot Project

To effectively implement the benefit granted in O.R.C. §126.65, this report proposes a five-year pilot program. The advantage of a pilot is that it would reveal unforeseen challenges, give the program administrator the experience in the unique intricacies of these claims and provide an opportunity to make necessary adjustments while minimizing the impact of change. A pilot would allow a smaller, more manageable scale to establish systems, ensure they work efficiently, and understand how a larger-scale program might work. In addition, a pilot allows for gathering baseline information by which future needs and costs can be projected.



State Agency Administration

If not administered by the Ohio BWC, administration of the PTS Fund should be assigned to an existing state agency which is:


- Responsive and understanding the need for timely response,
- Accountable to ensure certified, specific treatment for PTSD,
- Experienced funding third-party providers of treatment.

An existing state agency which has these characteristics should receive the funding seamlessly from the Office of Management and Budget and grant funding for implementation and operation of the program to an established, experienced, medical mental health program in suicide and trauma prevention, treatment, and intervention.

To achieve high-quality implementation, OP&F recommends The Ohio State University College of Medicine Department of Psychiatry and Behavioral Health is the provider due to its research-based, specialized approach. It has the current capability and the ability to scale, to provide both the intense immediate treatment, access to the most acute care if needed, and recommendations for qualified, specialized counselors across the state, wherever the first responder may call home. The STRIVE program would provide the highest quality of care, meet all national medical mental health and psychiatric standards, and maintain treatment here in Ohio.

STRIVE also has the experience to provide HIPAA-compliant data to the administering agency, during or at the conclusion of the five-year pilot program to advise on the needs going forward.

Structure: Administration of the PTS Fund could be administered following a model whereby the state Office of Budget and Management (OBM) would make funds available to the PTS Fund for benefits and administration. In the initial year, OBM could seed the PTS Fund. At the end of each fiscal year, the administrator would provide OBM with a summary of the number of participants, cost per beneficiary and the cost of administration for the year, which would be reconciled with the initial funding. Each year a projection for the next year would be provided



for OMB allocation, so that the PTS Fund is fully-funded each year. This mirrors the funding of the Ohio Public Safety Officers Death Benefit Fund.

Eligibility: Gathering baseline information by which future needs and costs can be accurately projected requires a manageable starting scale for the program. Positions covered by O.R.C. §126.65 are not defined. A proposed definition of “public safety officer” for the pilot period is detailed on page 7-8 of this report which is modeled after the Ohio Public Safety Officers Death Benefit Fund.

Claims Criteria: An application begins the process. A medical examiner with certification in diagnosis and treatment of PTSD would design an individualized treatment plan using the methods of analysis described in the American Medical Association’s (AMA) Guides 6th edition, with respect to psychiatric disorders, and such subsequent editions as may be adopted. The claimant must commit to complete their individual treatment plan.

Reconsideration of denial of an application for benefits should have an opportunity for a subsequent request for reconsideration if new evidence supporting eligibility is presented.

Benefits eligibility should continue during the course of treatment for up to 51 weeks, as long as the individual follows the prescribed treatment plan. This would include lost wages while unable to work as a result of the PTSD condition and payment for medical treatment including deductibles, medical, nurse, prescription drug, and hospital services and medicines to treat the member’s post-traumatic stress disorder that are not otherwise paid through a health insurance plan covering the member.

Benefits would terminate at voluntary separation from employment, retirement, death, or a determination of permanent disability.

Pilot Reporting Period

At the end of the pilot period, the PTS Fund administrator, would report to OBM on the five-year historic experience, carefully protecting personally identifiable information (PII) and Health Insurance Portability and Accountability Act (HIPAA) information of participants, and providing general data and recommendations by which projections could be made for future funding needed.



Conclusion

The PTS Fund is a benefit for active public safety employees and as such should be administered by the Ohio BWC. Since that appears unlikely, Ohio public safety forces should not be denied access to an important course of treatment to return them to their life and career.

State retirement systems do not have relationships with active employees, nor do they have experience administering benefits to active employees and are therefore not suited to administer the PTS Fund.

An existing state agency with experience administering benefits to active employees should be named administrator of the PTS Fund during a five-year pilot program in partnership with The Ohio State University College of Medicine. This pilot period would provide data, which is currently lacking, to provide a basis for more accurate projection of future program costs, as well as to establish program operations.

Appendix A – Comparison of States



MEMORANDUM

TO: Mary Beth Foley, Executive Director
Ohio Police & Fire Pension Fund

FROM: Souhile El Moussaoui
Catherine Taber
MacKenzie Newberry

THROUGH: Frank J. Reed, Jr., Frost Brown Todd LLC

DATE: February 22, 2021; Updated October 1, 2021

RE: 50 State Survey – Compensability of First Responders’ Pure Psychological Claims Under Workers’ Compensation Statutes

INTRODUCTION¹

In the last few years, there is growing momentum nationwide to consider legislation to grant or expand coverage for post-traumatic stress disorder and other psychological injuries incurred by first responders in the course of employment. Below is a state-by-state analysis of the compensability of pure psychological claims under Workers’ Compensation law. Currently twenty-five (25) states allow pure psychological claims, fourteen (14) states allow pure psychological claims for first responders (in some capacity), and eleven (11) states do not allow pure psychological claims. Ohio has been included in the final category due to their transitional status on the matter.² In addition, we carefully reviewed the cases across the country and could not find any case where, when a state grants compensation for psychological only injuries to only police and fire personnel, and where a plaintiff successfully asserted that such conduct was a violation of equal protection, under the law.

ALABAMA

No. Pure psychological injuries are not compensable under workers compensation.³

ALASKA

¹ This 50-state survey does not include the District of Columbia, Puerto Rico, or the U.S. Virgin Islands.

² *Disclaimer:* This survey was primarily completed in February of 2021 with a few updates in October of 2021. A final survey needs to be completed.

³ Ala. Code § 25-5-1 states that injury does not include a psychological disorder or injury that has “neither been produced nor proximately caused by some physical injury to the body.” (last accessed Feb. 4, 2021, via Westlaw).

Frost Brown Todd LLC

Yes. Pure psychological injury claims are allowed for all workers in extreme circumstances.⁴

ARIZONA

Yes. Pure psychological injury claims are allowed for all workers if caused by unexpected or extraordinary stress.⁵

ARKANSAS

No. Pure psychological claims are not compensable under the workers compensation act.⁶

CALIFORNIA

Yes, for first responders. The California legislature approved an amendment to its workers' compensation scheme specifically for police officers and firefighters for a period between January 1, 2020, and January 1, 2025, which includes post-traumatic stress that develops or manifests itself during a period in which the injured person is in the service of the department or unit.⁷ The bill does not require that a physical injury accompany the post-traumatic stress disorder.

COLORADO

⁴ Sec. 23 30.010(b) states that "Compensation and benefits under this chapter are not payable for mental injury caused by mental stress, unless it is established that (1) the work stress was extraordinary and unusual in comparison to pressures and tensions experienced by individuals in a comparable work environment; and (2) the work stress was the predominant cause of the mental injury... A mental injury is not considered to arise out of and in the course of employment if it results from a disciplinary action taken in good faith by the employer." (last accessed Feb. 5, 2021).

⁵ Ariz. Rev. Stat. Ann. § 23-1043.01 states that a "mental injury, illness or condition shall not be considered a personal injury by accident arising out of and in the course of employment and is not compensable pursuant to this chapter unless some unexpected, unusual or extraordinary stress related to the employment, or some physical injury related to the employment was a substantial contributing cause of the mental injury, illness or condition." (last accessed Feb. 5, 2021, via Westlaw).

⁶ Ark. Code Ann. § 11-9-113 states that a "mental injury or illness is not a compensable injury unless it is caused by physical injury to the employee's body, and shall not be considered an injury arising out of and in the course of employment or compensable unless it is demonstrated by a preponderance of the evidence, provided, however, that this physical injury limitation shall not apply to any victim of a crime of violence." (last accessed Feb. 5, 2021, via Westlaw).

⁷ Only until January 1, 2025, in the case of certain state and local firefighting personnel and peace officers, the term "injury" also includes post-traumatic stress that develops or manifests itself during a period in which the injured person is in the service of the department or unit. The bill would apply to injuries occurring on or after January 1, 2020. The bill would prohibit compensation from being paid for a claim of injury unless the member has performed services for the department or unit for at least 6 months, unless the injury is caused by a sudden and extraordinary employment condition. Cal. Lab. Code § 3212.15 (last accessed Feb. 5, 2021).

Yes. Pure psychological injury claims are compensable for all workers in limited circumstances.⁸ This would include an official diagnosis of post-traumatic stress disorder, even if not accompanied by a physical injury.⁹

CONNECTICUT

Yes, for first responders. Pure psychological injuries suffered by police officers and firefighters are compensable only as it relates to the treatment of the psychological injury.¹⁰

DELAWARE

Yes. Claims for pure psychological injuries are compensable under the workers compensation act.¹¹

FLORIDA

⁸ Colo. Rev. Stat. Ann. § 8-41-301(2)(a) states that a “claim of mental impairment must be proven by evidence supported by the testimony of a licensed psychiatrist or psychologist. A mental impairment shall not be considered to arise out of and in the course of employment if it results from a disciplinary action, work evaluation, job transfer, lay-off, demotion, termination, retirement, or similar action taken in good faith by the employer. The mental impairment that is the basis of the claim must have arisen primarily from the claimant’s then occupation and place of employment in order to be compensable.” (last accessed Feb. 5, 2021, via Westlaw).

⁹ “Psychologically traumatic event” also includes an event that is within a worker’s usual experience only when the worker is diagnosed with post-traumatic stress disorder by a licensed psychiatrist or psychologist after the worker experienced exposure to one or more of the following events:

(A) The worker is the subject of an attempt by another person to cause the worker serious bodily injury or death through the use of deadly force, and the worker reasonably believes the worker is the subject of the attempt;

(B) The worker visually or audibly, or both visually and audibly, witnesses a death, or the immediate aftermath of the death, of one or more people as the result of a violent event; or

(C) The worker repeatedly and either visually or audibly, or both visually and audibly, witnesses the serious bodily injury, or the immediate aftermath of the serious bodily injury, of one or more people as the result of the intentional act of another person or an accident;... and

(c) “Serious bodily injury” means bodily injury that, either at the time of the actual injury or a later time, involves a substantial risk of death, a substantial risk of serious permanent disfigurement, or a substantial risk of protracted loss or impairment of the function of any part or organ of the body. Colo. Rev. Stat. Ann. § 8-41-301 (West) (last accessed Feb. 5, 2021).

¹⁰ Sec. 31-294h covers benefits for police officers and firefighters suffering psychological or emotional impairment: “Notwithstanding any provision of this chapter, workers’ compensation benefits for any (1) police officer, as defined in subparagraph (B)(ii) of subdivision (16) of section 31-275, who suffers a mental or emotional impairment arising from such police officer’s use of deadly force or subjection to deadly force in the line of duty, or (2) firefighter, as defined in subparagraph (B)(ii) of subdivision (16) of section 31-275, who suffers a mental or emotional impairment diagnosed as post-traumatic stress disorder originating from the firefighter witnessing the death of another firefighter while engaged in the line of duty, shall be limited to treatment by a psychologist or a psychiatrist who is on the approved list of practicing physicians established by the chairman of the Workers’ Compensation Commission pursuant to section 31-280.” (last accessed Feb. 5, 2021) ([Sec. 31-294h | Workers’ Compensation Act as amended to January 1, 2019 \(state.ct.us\)](#)).

¹¹ Delaware defines injury as “violence to the physical structure of the body, such disease or infection as naturally results directly therefrom when reasonably treated and compensable occupational diseases and compensable ionizing radiation injuries arising out of and in the course of employment.” Title 19-Chapter 23, Workers’ Compensation – Subchapter I. General Provisions (last accessed Oct. 12, 2021).

Yes, for first responders. Florida allows first responders to claim a psychological or nervous injury if demonstrated by clear and convincing evidence. However, for psychological or nervous injuries arising out of employment unaccompanied by a physical injury, the first responder may only receive compensation for medical benefits.¹²

GEORGIA

No. Pure psychological injury claims are not allowed.¹³ Psychological claims are only compensable in conjunction with a physical injury.

HAWAII

Yes. Psychological injuries, including pure psychological injuries, are likely compensable, except in certain circumstances, for all employees.¹⁴

IDAHO

Yes, for first responders. While psychological injuries are generally compensable only when accompanied by a physical injury,¹⁵ state law does not require first responders to sustain a physical injury.¹⁶

ILLINOIS

Yes. Psychological injuries are compensable under the Workers' Compensation Act under two theories: physical-psychological, when the injuries are related to and caused by a physical trauma or injury, and psychological-psychological, when the injuries are caused by

¹² Title X 112.1815 (last accessed Feb. 8, 2021).

¹³ Psychiatric and psychological problems, as well as heart and vascular diseases, shall not be considered occupational diseases under Georgia law, except where they arise from a separate occupational disease. Ga. Code Ann. § 34-9-280 (last accessed Feb. 12 via Westlaw).

¹⁴ If an employee suffers personal injury either by accident arising out of and in the course of the employment or by disease proximately caused by or resulting from the nature of the employment, the employee's employer or the special compensation fund shall pay compensation to the employee or the employee's dependents. However, a claim for mental stress resulting solely from disciplinary action taken in good faith by the employer shall not be allowed. § 386-3. (last accessed Feb. 10, 2021).

¹⁵ Idaho Code. Ann. §72-451 (last accessed Feb. 8, 2021, via Westlaw).

¹⁶ "Post-traumatic injury suffered by a first responder is a compensable injury or occupational disease when the following conditions are met: (a) The first responder is examined and subsequently diagnosed with post-traumatic stress injury by a psychologist, a psychiatrist duly licensed to practice in the jurisdiction where treatment is rendered, or a counselor trained in post-traumatic stress injury; and (b) Clear and convincing evidence indicates that the post-traumatic stress injury was caused by an event or events arising out of and in the course of the first responder's employment." Idaho Code. Ann. §72-451 (last accessed Feb. 8, 2021, via Westlaw).

sudden severe emotional shock traceable to a definite time and place and cause even though no physical trauma or injury occurred.¹⁷

INDIANA

No. Only psychological injuries that result directly from a physical injury are compensable under the Workers' Compensation Act.¹⁸

IOWA

Yes. Purely psychological injuries are compensable under the workers' compensation law, if such injury is caused by workplace stress of greater magnitude than day-to-day stress experienced by similarly situated workers.¹⁹

KANSAS

No. In order for claims of psychological injury to be compensable, such injury must be associated with physical injuries.²⁰

KENTUCKY

No. Kentucky does not allow claims of pure psychological injury. Any psychological or stress-related injuries must be a direct result of physical injury.²¹

LOUISIANA

Yes. Generally, a psychological injury must be the result of a physical injury to be compensable. However, a psychological injury can be compensable if it is a result of a sudden, unexpected, and extraordinary stress related to employment. Under both circumstances, the psychological injury must be proven by clear and convincing evidence. Additionally, Louisiana law adds post-traumatic stress to the list of compensable presumptions under the workers'


¹⁷ *Matlock v. Industrial Com'n*, App. 1 Dist.2001, 253 Ill.Dec. 930, 321 Ill.App.3d 167, 746 N.E.2d 751, rehearing denied. In dealing with the physical-psychological category of psychological injuries, even a minor physical contact or injury may be sufficient to trigger compensability under the Workers' Compensation Act. *Id.*

¹⁸ *Campbell v. Kiser Corp. & Diecast*, 208 N.E.2d 727, 137 Ind.App. 366 (1965).

¹⁹ *Dunlavey v. Economy Fire and Cas. Co.*, 526 N.W.2d 845 (Iowa 1995).

²⁰ *Rund v. Cessna Aircraft Co.*, 213 Kan. 812, 827, 518 P.2d 518 (1974); *Helmstetter v. Midwest Grain Prod., Inc.*, 29 Kan. App. 2d 278, 279, 28 P.3d 398, 400 (2001).

²¹ 342.0011; *Adams v. Bryant*, 274 S.W.2d 791, (Ky.App. 1955); *Wal-Mart Stores, Inc. v. Smith*, 277 S.W.3d 610. (Ky.App. 2008).



compensation act for first responders. This presumption may only be rebutted by clear and convincing evidence.²²

MAINE

Yes. Pure psychological injuries are compensable under the workers' compensation act for all workers if it can be proven by clear and convincing evidence and was of such an extraordinary and unusual nature in comparison to the pressures and tensions experienced by the average employee. Additionally, the work stress must have been the predominant cause of the psychological injury. Similar elements must be met for post-traumatic stress disorder to be compensable for first responders.²³

MARYLAND

Yes. Maryland courts have held that post-traumatic stress disorder, unaccompanied by a physical injury, can be compensable under the workers' compensation act.²⁴ It is not limited to post-traumatic stress disorder in first responders.

MASSACHUSETTS

Yes. Personal injuries include psychological and emotional disabilities for the purposes of the workers' compensation act when the predominant contributing cause of such disability is an event or series of events occurring within any employment.²⁵

MICHIGAN

Yes. Personal injuries include both physical and psychological injuries suffered on account of employment. Psychological injuries are compensable even if unaccompanied by physical injury.²⁶

MINNESOTA


²² La.Stat. Ann. § 23:1021(8) (a-d) (last accessed Feb. 12, 2021).

²³ 328-A, subsection 1. Me. Rev. Stat. tit. 39-A, § 201.

²⁴ *Means v. Baltimore Cty.*, 344 Md. 661, 662, 689 A.2d 1238, 1238 (1997).

²⁵ MA. Gen. L. Ch. 152 § (last accessed Feb. 9, 2021). Additionally, no psychological or emotional disability arising principally out of a bona fide, personnel action including transfer, promotion, demotion, or termination will be deemed to be a personal injury. *Id.*

²⁶ *Sewell v. Bathey Mfg. Co.* (1981) 303 N.W.2d 876, 103 Mich.App. 732; *Hammons v. City of Highland Park Police Dep't*, 421 Mich. 1, 10, 364 N.W.2d 575, 578-79 (1984).



Yes. Post-traumatic stress disorder is specifically mentioned in the workers' compensation statute. It is the only type of pure psychological claim recognized in Minnesota. Other psychological claims require a physical injury. For injuries occurring after January 1, 2019, there is a presumption that post-traumatic stress disorder in first responders is compensable absent pre-existing history.²⁷

MISSISSIPPI

Yes. Pure psychological injuries are compensable, absent physical trauma, if caused by something more than the ordinary incidents of employment.²⁸

MISSOURI

Yes. Pure psychological injuries are compensable if it is demonstrated that the stress is work related, extraordinary, and unusual. Such stress is measured by objective standards and actual events.²⁹

MONTANA

No. Physical injury must accompany any psychological injury.³⁰

NEBRASKA

Yes, for first responders. Pure psychological injuries are generally not compensable under Nebraska law. However, the relevant statute carves out an exception for first responders, provided they are able to establish that the employment conditions causing the psychological injury or illness were extraordinary and unusual in comparison to the normal conditions of the particular employment. Additionally, there must be a medical causation between the psychological injury or illness and the employment conditions, to be proven by medical evidence through a mental health professional.³¹

NEVADA


²⁷ *Smith v. Carver Cty.*, 931 N.W.2d 390, 396 (Minn. 2019); [Information sheet: Workers' compensation – PTSD, mental injuries \(mn.gov\)](#) (last accessed Feb. 12, 2021).

²⁸ Such injury must be proven by clear and convincing evidence. *Smith & Sanders, Inc. v. Peery*, 473 So.2d 423, 425 (Miss.1985); *Miller Transporters v. Reeves*, 195 So.2d 95 (Miss.1967); and *Dunn's Mississippi Workers' Compensation* § 114 (3d ed. Supp.1984).

²⁹ Section 287.120.8; *Jones v. Washington Univ.*, 199 S.W.3d 793, 796 (Mo. Ct. App. 2006).

³⁰ Mont. Code Ann. § 39-71-119: "Injury" or "injured" does not mean a physical or mental condition arising from: (a) emotional or mental stress; or (b) a nonphysical stimulus or activity; *Kleinheselink v. Chevron, U.S.A.*, 1996, 277 Mont. 158, 920 P.2d 108.

³¹ Neb.Rev.St. §48-101.01(2). (last accessed Feb. 16, 2021).



Yes, for first responders. Pure psychological claims are compensable for first responders. However, the relevant statute explicitly excludes from coverage any condition caused by any gradual psychological stimulus. Additionally, to qualify as a compensable injury, the applicant must prove, by clear and convincing evidence that (1) the employee has a psychological injury caused by extreme stress due to the employee directly witnessing (i) the death, or the aftermath of the death, of a person as a result of a violent event or (ii) an injury, or the aftermath of an injury, that involves grievous bodily harm of a nature that shocks the conscience; and (2) the primary cause of the psychological injury was the employee witnessing such an event during the course of his or her employment.³²

NEW HAMPSHIRE

Yes, for first responders. The New Hampshire legislature carved out an exception to the State's general exclusion of pure psychological claims from compensable injuries to specifically include in its definition of "injury" or "personal injury," acute stress disorder and post-traumatic stress disorder for employees who meet the definition of an emergency response/public safety worker under R.S.A. 281-A:2, V-c.³³

NEW JERSEY

Yes. Pure psychological claims are compensable. However, there must be objectively verifiable evidence.³⁴

NEW MEXICO

Yes, for firefighters. Post-traumatic stress disorder diagnosed by a physician or psychologist that results in physical impairment, primary or secondary psychological impairment, or death is compensable if the claimant is a firefighter.³⁵

NEW YORK

Yes. Pure psychological claims are compensable if the psychological injury is not a direct consequence of a lawful personnel decision.³⁶

³² N.R.S. 616C.180(4) (last accessed Feb. 16, 2021).

³³ N.H. Rev. Stat § 281-A:2(XI) (last accessed Feb. 16, 2021).

³⁴ N.J.S.A. 34:15-31; *Goyden v. State*, 256 N.J.Super. 438 (A.D. 1991) (For claimant's psychological condition to be compensable, working conditions must be stressful, viewed objectively, and believable evidence must support that finding that claimant reacted to them as stressful; in addition, objectively stressful work conditions must be peculiar to particular workplace, where must be objective evidence supporting medical opinion of resulting psychiatric disability).

³⁵ N.M.S.A. 1978, § 52-3-32.1 (last accessed Feb. 16, 2021).

³⁶ NY Work Comp §2(7) (last accessed Feb. 16, 2021).

NORTH CAROLINA

Yes. Worker's compensation is addressed under N.C. Gen. Stat. Chapter 97. North Carolina permits psychological only claims for worker's compensation when the psychological condition arises out of an "accident" or as an occupational disease if the condition arises from circumstances of employment that are atypical. House Bill 492, which would allow coverage for post-traumatic stress disorder ("PTSD") for first responders as an occupational disease, has passed the House and has been in committee in the Senate since May 10, 2021.

NORTH DAKOTA

No. The term "compensable injury" does not include pure psychological claims under North Dakota law.³⁷

OHIO

No. Current Workers' Compensation law provides compensation for post-traumatic stress disorder only when accompanied by a physical injury. However, in early January 2021, Governor DeWine signed a bill into law that will allow public safety officers who have been diagnosed with PTSD to be compensated through a fund overseen by the State's Director of Budget and Management and the Ohio Police and Fire Pension Fund. The law went into effect on April 12, 2021.

OKLAHOMA

No. Pure psychological claims are currently not compensable under Oklahoma law. In 2019, a bill was introduced to carve an exception for first responders, but the bill failed. The Oklahoma legislature considered a bill in early 2021, House Bill 2276, that would have provided PTSD coverage for first responders. However, House Bill 2276 has never passed.

OREGON

Yes. Oregon recognizes as compensable, any psychological disorder, whether sudden or gradual in onset, which requires medical services or results in physical or psychological disability or death.³⁸

PENNSYLVANIA

Yes. Pure psychological injuries are compensable, but they require proof of abnormal working conditions.³⁹

³⁷ NDCC § 65-01-02(11)(b)(10) (last accessed Feb. 16, 2021).

³⁸ O.R.S. § 656.802 (1)(a)(B) (last accessed Feb. 16, 2021).

³⁹ See *Frankiewicz v. Workers' Compensation Appeal Board*, 177 A.3d 991 (Pa. 2017) ("When there is no physical injury as precursor to alleged psychic injury, claimant must demonstrate either (a) that actual, extraordinary events



RHODE ISLAND

Yes. Pure psychological claims are compensable, provided that they result from a situation of greater dimensions than the day-to-day emotional strain and tension which all employees encounter daily without serious psychological injury.⁴⁰

SOUTH CAROLINA

Yes. Pure psychological claims are compensable, provided that the employee is able to prove that the stress or mental health injury is extraordinary in nature and the result of abnormal working conditions.⁴¹ The South Carolina legislature rejected a bill that would have ensured the availability of workers’ compensation benefits for mental health care sought by emergency responders suffering from PTSD.

SOUTH DAKOTA

No. South Dakota’s workers’ compensation statute does not recognize pure psychological claims as compensable. A physical injury to the body is required.⁴² A House Bill was introduced on January 30, 2020, to cover pure psychological claims but the bill died in chamber in February 2020. While there does not appear to be any pending legislation regarding PTSD coverage for first responders, two items are worth mentioning. First, House Bill 1064 was signed into law on March 29, 2021. This bill made an appropriation for the establishment of peer support and critical incident stress management for training for first responder organizations. Second, House Concurrent Resolution 6012 passed both houses to encourage the Executive Board of the Legislature to reauthorize the mental health of first responders task force interim legislative study.

TENNESSEE

Yes. Compensable injuries include psychological injuries which are defined as the loss of mental faculties or behavioral disorders arising primarily out of a compensable physical injury or an identifiable work-related event that resulted in a sudden or unusual stimulus.⁴³

that can be pinpointed in time occurred at work which caused psychic injury or (b) that abnormal working conditions over longer period of time caused psychic injury.”).

⁴⁰ Gen.Laws 1956, § 28-34-2 (last accessed Feb. 16, 2021).

⁴¹ Code 1976 § 42-1-160(B) (last accessed Feb. 16, 2021).

⁴² SDCL § 62-1-1(7) (last accessed Feb. 16, 2021).

⁴³ T.C.A. § 50-6-102(14), (17) (last accessed Feb. 16, 2021).

TEXAS

Yes, for first responders. Post-traumatic stress disorder is a compensable injury if suffered by a first responder, provided that the disorder is caused by one or more events occurring in the course and scope of employment and that evidence indicates the event or events were a producing cause of the disorder.⁴⁴

UTAH

Yes. Pure psychological claims are compensable provided that the claimant is able to establish sufficient legal and medical causal connection between the injury and employment.⁴⁵

VERMONT

Yes, for first responders. Post-traumatic stress suffered by first responders is compensable and presumed to have been incurred in the line of duty unless it is shown that the disorder was caused by other factors.⁴⁶

VIRGINIA

Yes, for first responders. Firefighters and law enforcement officers are eligible for benefits for post-traumatic stress disorder that is triggered by a qualifying event under the statute that occurred in the line of duty on or after July 1, 2020.⁴⁷

WASHINGTON

Yes, for first responders. Pure psychological claims are compensable for firefighters and law enforcement officers. Additionally, state law recognizes a *prima facie* presumption that PTSD is an occupational disease for first responders.⁴⁸

WEST VIRGINIA

Yes, for first responders. Worker's compensation is addressed under W.Va. Code Chapter 23. Article 4 Section 1f clarifies that psychological only injuries are not compensable under that Chapter. However, on April 10, 2021, the legislature passed House Bill 3107 which permits PTSD to be covered for first responders. Notably, the employer must elect to provide such coverage as an occupational disease.

⁴⁴ TX Labor Sec. 408.006 (last accessed Feb. 16, 2021).

⁴⁵ U.C.A. 1953 Sec. 34A-2-402 (last accessed Feb. 16, 2021).

⁴⁶ 21 V.S.A. Sec. 601(I)(i) (last accessed Feb. 16, 2021).

⁴⁷ VA Code Ann. Sec. 65.2-107 (last accessed Feb. 16, 2021).

⁴⁸ RCWA 51.32.185(b) (last accessed Feb. 16, 2021).



WISCONSIN

Yes. Pure psychological claims are compensable, but the applicant must prove that his or her employment produced extraordinary stress as compared to similarly situated individuals.⁴⁹

WYOMING

Yes, for first responders. Pure psychological claims are compensable if experienced by a first responder and established by clear and convincing evidence which includes a diagnosis by a licensed psychiatrist, clinical psychologist or psychiatric mental health nurse practitioner. Additionally, the injury must not be directly attributed to lawful personnel decisions.⁵⁰

⁴⁹ W.S.A. 102.01(2)(c) (last accessed Feb. 16, 2021).

⁵⁰ W.S.1977 § 27-14-102(a)(J) (last accessed Feb. 16, 2021).
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Appendix B – Input from Stakeholders



MEMORANDUM

To: Mary Beth Foley, Executive Director
Ohio Police & Fire Pension Fund

From: Frank J. Reed Jr., Member, Frost Brown Todd LLC

Re: Stakeholder Report Regarding the Post
Traumatic Stress Fund

Below is a summary of the input received from the stakeholders, as required by H.B. 308. None of the five retirement systems expressed an interest in administering the PTSD fund, as they lack that expertise.

THE OHIO CHAMBER OF COMMERCE

I. Background of the Entity

The Ohio Chamber of Commerce (the “OCC”) was founded in 1893. They currently have approximately 8,000 members. These members range from small businesses to Fortune 500 companies. The OCC has members in every industry including, but not limited to, retail, manufacturing, professional services, transportation, telecommunication, construction, energy, and restaurants.

II. Communication

On January 29, 2021, a letter was sent to the OCC requesting information regarding their position on House Bill 308. On April 7, 2021, a meeting was held with OCC representative Kevin Shimp, Esq., Director, Labor & Legal Affairs. On October 15, 2021, Mr. Shimp provided an update regarding the OCC’s opinions as to the state post-traumatic stress fund.

III. Main Points

- The OCC supports providing PTSD treatment for police officers and firefighters, but they do not believe that the Bureau of Workers’ Compensation (“BWC”) should administer the program.
- The OCC supports the Ohio Department of Public Safety or another agency administering a PTSD program.

Frost Brown Todd LLC



THE NATIONAL FEDERATION OF INDEPENDENT BUSINESS

I. Background of the Entity

The National Federation of Independent Business (the “NFIB”) was founded in 1943. The NFIB seeks to be the voice of small and independent businesses.

II. Communication

On January 29, 2021, a letter was sent to the NFIB requesting information regarding their position on House Bill 308. During the week of February 15, 2021, a meeting was held with NFIB representatives Roger Geiger, Vice President and Executive Director in Ohio, Jared Weiser, Member Benefits Program Manager, and Chris Ferruso, Legislative Director.

III. Main Points

- The NFIB is not opposed to allowing PTSD coverage for police and fire.
- They do not have an opinion on which state agency administers the program as long as it is not the Ohio BWC.

THE OHIO MANUFACTURERS’ ASSOCIATION

I. Background of the Entity

The Ohio Manufacturers’ Association (“OMA”) was founded in 1910. The OMA was created to help members navigate policy issues related to workers’ compensation and to advocate for Ohio’s manufacturers. Currently, the OMA has approximately 1,300 members.

II. Communication

On January 29, 2021, a letter was sent to the OMA requesting information regarding their position on House Bill 308. On June 1, 2021, a meeting was held with OMA representative Robert Brundrett, Managing Director, Public Policy Services.

III. Main Points

- Psychological-only PTSD coverage should not be administered by the Ohio BWC.

THE COUNTY COMMISSIONER’S ASSOCIATION

I. Background of the Entity



The County Commissioner’s Association of Ohio (the “CCAO”) was founded in 1867. The CCAO seeks to advance effective county government via legislative advocacy, education, technical assistance, research, quality enterprise service programs, and to enhance citizen knowledge of county government. Currently, all 88 counties are members of the CCAO.

II. Communication

On January 29, 2021, a letter was sent to the CCAO requesting information regarding their position on House Bill 308. On April 8, 2021, a meeting was held with CCAO representatives Cheryl Subler, Executive Director, John Leutz, Esq., Assistant Director, and Rachel Massoud, Policy Analyst.

III. Main Points

- As structured in past legislation, PTSD coverage for police and fire produces significant fiscal uncertainty for counties, to which CCAO is opposed.
- CCAO prefers BWC administer the program if it will be structured similarly and has concerns about many details surrounding a program administered outside of BWC including, but not limited to: rules for eligibility, employer liability, appeals processes, healthcare and medical care management tools for workers, startup costs for the program, and ongoing increased costs to public employers.

THE OHIO TOWNSHIP ASSOCIATION

I. Background of the Entity

The Ohio Township Association (the “OTA”) was founded in 1928. The OTA seeks to encourage and maintain township government via educational and lobbying efforts. Currently, the OTA has approximately 5,200 members.

II. Communication

On January 29, 2021, a letter was sent to the OTA requesting information regarding their position on House Bill 308. On March 30, 2021, a meeting was held with OTA representative Heidi Fought, Executive Director.

III. Main Points

- OTA is not opposed to PTSD coverage for police and fire.
- OTA does not want the BWC to administer the program, and they are concerned about the details of the program.



THE OHIO MUNICIPAL LEAGUE

I. Background of the Entity

The Ohio Municipal League (the “OML”) was founded in 1952. The OML is a statewide organization to service the range of interests of municipal government. The OML currently has approximately 756 members. More specifically, of the 217 cities in Ohio, 173 are members of the OML. Also, of the 680 villages in Ohio, 527 are members of the OML.

II. Communication

On January 29, 2021, a letter was sent to the OML requesting information regarding their position on House Bill 308. On March 31, 2021, a meeting was held with OML representative Edward Albright – Deputy Director.

III. Main Points

- OML is neutral on providing PTSD coverage to police and fire, but they are concerned about the rules for eligibility.
- OML believes that the Ohio BWC should not be the agency which administers the program.

THE OHIO ASSOCIATION OF PROFESSIONAL FIRE FIGHTERS

I. Background of the Entity

The Ohio Association of Professional Fire Fighters (“OAPFF”) was founded in 1918. The OAPFF seeks to protect the interests and health and safety of first responders. Currently, the OAPFF has approximately 13,000 members.

II. Communication

On July 12, 2021, a letter was sent to the OAPFF requesting information regarding their position on House Bill 308. On August 23, 2021, a meeting was held with OAPFF representative Jim Carney - Director of Governmental Affairs.

III. Main Points

- The OAPFF wants their members to receive paid time off and paid medical expenses in an efficient and effective manner.
- The OAPFF believes that the BWC should house the PTSD system because the BWC has the proper mechanisms in place to do so.



THE PUBLIC EMPLOYEES RETIREMENT BOARD

I. Background of the Entity

The Ohio Public Employees Retirement System (“OPERS”) was founded in 1935. OPERS provides retirement, disability, and survivor benefit programs for public employees who are not covered by another state or local retirement system. All employees who are paid either in whole or in part by the State of Ohio, a county, municipality, or other political subdivision of the state or local government, must be members of OPERS unless they are covered by a different state retirement system or the Cincinnati Retirement System. OPERS has approximately 8,000 members in their law enforcement division, and approximately 260,000 members in their general division.

II. Communication

On July 12, 2021, a letter was sent to OPERS requesting information regarding their position on House Bill 308. On August 10, 2021, a meeting was held with OPERS representatives Allen Foster, Director of Benefits, and Gordon Gatten, Director of External Relations.

III. Main Points

- OPERS believes that a system is already in place to handle PTSD psychological-only claims for conditions persisting for one year or more.
- If the Ohio General Assembly offers PTSD coverage to police and fire, there are several more categories of public employees who will eventually demand coverage.

THE STATE HIGHWAY PATROL RETIREMENT BOARD

I. Background of the Entity

The Highway Patrol Retirement System (“HPRS”) was established in 1941. The HPRS provides age and service, disability, survivor, and death benefits, as well as health care coverage and benefits for recipients and eligible dependents. Currently, HPRS has approximately 1,542 active members.

II. Communication

On June 22, 2021, the Ohio Police and Fire Pension Fund received a communication that HPRS was not interested in providing input on House Bill 308. On July 12, 2021, a letter was sent to the HPRS requesting information regarding their position on House Bill 308. On August 30, 2021, a follow-up email was sent to HPRS regarding whether they would like to provide an opinion for the report. A brief response was provided.



III. Main Points

- HPRS supports PTSD benefits that are appropriately funded.

THE FRATERNAL ORDER OF POLICE OF OHIO

I. Background of the Entity

The Fraternal Order of Police (“FOP”) of Ohio was founded in 1934. The FOP of Ohio seeks to advance and protect law enforcement and their families. The FOP of Ohio currently has a membership of approximately 25,000.

II. Communication

On July 12, 2021, a letter was sent to the FOP requesting information regarding their position on House Bill 308. No response was received. On August 30, 2021, a follow-up email was sent to the FOP regarding whether they would like to provide an opinion for the report. On October 29, 2021, a letter was sent to the FOP requesting their position. On November 5, 2021, the FOP provided an update as to their position.

III. Main Points

- FOP believes that the BWC should administer the PTSD system and process claims for their members for PTSD and other psychological only injuries incurred during the course of employment
- FOP believes that the BWC was created, and is specifically equipped, to handle this type of claim
- FOP believes that requiring OP&F to administer the PTSD fund would be unnecessarily causing another agency to process such claims

SPECIFIED ENTITIES WITH NO POSITION REGARDING FUNDING FOR THE STATE POST-TRAUMATIC STRESS FUND

Of the twelve entities that the Ohio Police and Fire Pension Fund was required to consult with in preparation of their report, three entities were contacted and either provided no response or indicated that they had no position on the funding at this time.

THE STATE TEACHER’S RETIREMENT BOARD

I. Background of the Entity



The Ohio State Teachers Retirement System (“STRS”) was founded in 1920. The STRS provides disability, retirement, and survivor benefits to its members. The STRS has approximately 500,000 members that are active, inactive, and retired.

II. Communication

On June 22, 2021, the Ohio Police and Fire Pension Fund received a communication that STRS was not interested in providing input on House Bill 308. On July 12, 2021, a letter was sent to the STRS requesting information regarding their position on House Bill 308. STRS indicated that they are not interested in providing an opinion for the report. On August 30, 2021, a follow-up email was sent to STRS inquiring as to whether they would like to provide an opinion for the report. On August 31, 2021, STRS indicated that they had no position at this time.

THE SCHOOL EMPLOYEES RETIREMENT BOARD

I. Background of the Entity

The School Employees Retirement System (“SERS”) of Ohio was founded in 1937. The SERS of Ohio is a defined benefit public pension fund that offers retirement allowances, disability and survivor benefits, and access to health care coverage for the people who serve Ohio schools. Currently, the SERS has approximately 239,000 members and retirees.

II. Communication

On June 22, 2021, the Ohio Police and Fire Pension Fund received a communication that SERS was not interested in providing input on House Bill 308. On July 12, 2021, a letter was sent to the SERS requesting information regarding their position on House Bill 308. SERS indicated that they had no position at this time.

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Appendix C – Ohio Bureau of Workers’ Compensation



140 East Town Street, Columbus, Ohio 43215

February 26, 2021

John E. Logue
Interim Administrator
Ohio Bureau of Workers’ Compensation
30 W. Spring Street
Columbus, Ohio 43215

Re: H.B. 308 SPTSF Study

Dear Mr. Logue:

I write to request your assistance regarding recent legislation that created the State Post-Traumatic Stress Fund (SPTSF) for Ohio’s public safety employees. As you know, Amended Substitute House Bill 308 of the 133rd General Assembly requires state of Ohio agencies to work together in order to complete a study with recommendations to the Ohio legislature on the SPTSF. The law tasks the Ohio Police and Fire Pension Fund (OP&F) with conducting an analysis of several factors relating to the new fund.

Most relevantly, the bill requires OP&F to hire a third-party actuary to study the economic impact and options for administering the SPTSF. The actuary is required to prepare a report of the actuarial analysis, which must include the following:

- A projection of the number of participants eligible for compensation and benefits from the fund;
- A projection of potential claims per year;
- A projection of the cost of health care and pharmacy benefits;
- A projection of the average benefit amount based in the weekly wage;
- A review of administrative and appeal processes for claims;
- Projected administrative costs and options for administration;
- A description of lost wage compensation and medical benefit amounts evaluated;
- A description of participant groups included in the report;
- A review of other comparable states and how they administer;
- Any other issues identified in the review.

On August 23, 2019, as I am sure you are aware, the Ohio Bureau of Worker’s Compensation Board of Directors issued a report estimating the approximate cost if Ohio Workers’ Compensation laws allowed Post-Traumatic Stress Disorder for first responders without an associated physical injury. A copy of the report is attached and labeled Exhibit A.



Page 2 letter to John E. Logue, Interim Administrator, BWC, Feb 26, 2021

At that time, your agency estimated that Ohio has the following:

1,080 Ambulance drivers
10,130 Emergency Medical System employees
33,491 Firefighters
35,339 Police officers
For a total of 80,100 First Responders

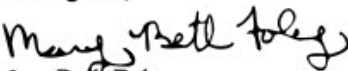
According to public records maintained by the Ohio Bureau of Worker's Compensation ("BWC"), please send to me as soon as possible, as of February 26, 2021:

1. The current number of ambulance drivers in Ohio The current number of Emergency Medical Technicians/System employees in Ohio
2. The current number of Firefighters in Ohio
3. The current number of police officers in Ohio
4. The current number of First Responders in Ohio

Next, we request aggregated information (no personally identifying information) on the number of employees in the above listed categories who filed claims of any nature with BWC in past five years.

Finally, I wish to complement you on your staff in legislative affairs and legal, who have been so generous with their time in assisting us to date. We are willing to sign a memorandum of understanding on the use and confidentiality of information/data BWC legal deems confidential or worthy of exemption under Ohio's public records law exceptions. The study and report must be completed not later than **October 1, 2021**, so time is of the essence. Your help is very much appreciated.

Best regards,


Mary Beth Foley
General Counsel

C: The Honorable Robert Cupp, Speaker, Ohio House of Representatives
The Honorable Matt Huffinan, President, Ohio Senate
The Honorable Mike DeWine, Governor, State of Ohio

To: Legislative Service Commission
Chair, Senate Transportation, Commerce and Workforce Committee
Chair, Senate Insurance and Financial Institutions Committee
Chair, House Insurance Committee

From: Chan Cochran, Chair, Ohio Bureau of Workers' Compensation (BWC) Board of Directors

Date: August 23, 2019

Re: ORC 4121.125 Actuarial Analysis of Pending Legislation – House Bill 308

Attached you will find an actuarial analysis of House Bill 308, which would modify Ohio workers' compensation benefits for Post-Traumatic Stress Disorder (PTSD) for first responders without an associated physical injury. This report fulfills ORC 4121.125 (C)(6) and (7), which require the BWC Board of Directors to have prepared, by or under the supervision of an actuary, an actuarial analysis of any introduced legislation expected to have a measurable financial impact on the workers' compensation system.


This bill is very similar to bills introduced in previous General Assemblies but limits the duration of benefits and treatment to a 12-month period from the date of first benefit receipt. In conducting the analysis, BWC's Actuarial staff has performed extensive research of publicly available related studies and their underlying assumptions for use in development of an estimate of the potential fiscal impact to the State Insurance Fund.

In summary, the actuarial estimate of the impact of the additional claims being filed as a result of the enactment of House Bill 308 would be an annual increase of approximately \$44 million. While the extent of the potential increase is difficult to predict with any degree of precision due to significant data limitations, we feel the estimate provided is reasonable. We note that this increased cost will result in higher future premiums for the public entities with first responder employees.

Details of the estimate can be found in the BWC Actuarial staff's analysis, as further detailed in the attached report.

Please feel free to contact our BWC staff if you have further questions.

EXHIBIT A



**Estimated Financial Impact of 2019 House Bill No. 308
Proposed Legislation on Post-Traumatic Stress Disorder
for First Responders without an Accompanying Physical Injury**

Background

Workers' compensation benefits for Post-Traumatic Stress Disorder (PTSD) has been included in House Bill 308. Currently, workers' compensation benefits exist when PTSD coincides with a physical injury. The provisions of this bill would extend those benefits to police officers, firefighters, and emergency medical workers if they suffer from PTSD after being exposed to a traumatic event regardless of whether the event resulted in a physical injury.

PTSD language has been proposed twice recently.

- In 2015 during General Assembly 131 as Senate Bill 5
- In 2017 during General Assembly 132 as Senate Bill 118

The language of these two versions are similar to House Bill 308 but Senate Bill 118 appears to be more similar in that both contain a limitation of one year for the receipt of benefits.

Underlying Assumptions

In light of additional information from other states, we have revisited the reasonability of previous assumptions, the resulting estimated amounts as well as whether the ambiguity surrounding the assumptions underlying these amounts can produce an estimate that can be relied upon.

Claims Related Assumptions

The original assumptions were:

1. 18% of the Ohio First Responders may have PTSD at some point in their career.¹
2. PTSD in First Responders would emerge at an annual rate of 20% of that number (18%).


These assumptions result in an estimate that 3.6% of all First Responders would file a claim each year and implicitly assume the reporting rate would be 100% of those with PTSD.

Based upon the roughly 80,000 First Responders in Ohio, we would project approximately 2,900 PTSD claims per year.

New information reviewed

From an estimate develop by actuaries at the Washington Department of Labor & Industries on their recently enacted PTSD for Law Enforcement Officers and Firefighters, they presumed that 38% of those with PTSD (rather than our 100% estimate) would be willing to report it and make

¹ Extreme Stress: Promoting Resilience Among EMS Workers, Randal Beaton http://www.nwpublichealth.org/docs/nph/f2006/beaton_f2006.pdf and Post traumatic Stress Disorder in the National Comorbidity Survey, Kessler et al 1995 [https://msrc.fsu.edu/system/files/Kessler et al 1995 Posttraumatic Stress Disorder in the National Comorbidity Survey.pdf](https://msrc.fsu.edu/system/files/Kessler%20et%20al%201995%20Posttraumatic%20Stress%20Disorder%20in%20the%20National%20Comorbidity%20Survey.pdf)



**Estimated Financial Impact of 2019 House Bill No. 308
Proposed Legislation on Post-Traumatic Stress Disorder
for First Responders without an Accompanying Physical Injury**

a claim for treatment and benefits.² We found Washington's assumption to be persuasive and that 38% of those with PTSD in any given year will file a claim, at least initially.

Adding this assumption to our assumption set, reduces our annual frequency per exposed First Responder to 0.76% or just under 1,100 claims per year.

Cost per Claim Assumptions

The cost per claim is dependent upon the average expected wage replacement benefit, the average treatment cost, the average pharmaceutical cost and the expected duration of the coverage of those benefits. House Bill 308, as introduced, limits the duration of benefit payments to one year from the date of first receipt.

We have developed an expected average annual wage replacement benefit across the types of first responders to develop an expected average annual first responder wage replacement benefit of about \$33,000. To account for the possibility of some injured workers needing the wage replacement benefit for less than the full year, we have adjusted the annual figure by applying a factor of 90% which results in an adjusted amount of \$29,765.

Based on the estimated medical benefit costs developed by the BWC Medical Team in prior estimates, we are using the figures of \$7,500 for the average treatment cost over the year and \$2,500 for the average pharmaceutical cost in the year or \$10,000 for the estimated medical benefit costs per claim under House Bill 308.


House Bill 308 Cost estimate by the numbers:

- 80,100 Ohio first responders.
- At any point in time, 2,900 would have PTSD.
- 1,100 (38%) would file a claim in any year.
- Cost is \$40,000 per claim.
- **1,100 claims x \$40,000 costs = \$44 million in annual costs.**

Uncertainty of Actual Future Results

The methodology and factors used in this analysis involve assumptions on future contingent events. As outlined in the summary above, there are numerous assumptions essential in this analysis. Although the method and actuarial procedures follow actuarial standards of practice, it should be noted the actual future results may vary, perhaps significantly, from the estimates reported here.

² Kessler, RC, Post traumatic stress disorder: the burden to the individual and to society, 2000 <https://www.ncbi.nlm.nih.gov/pubmed/10761674> and Washington Department of Labor and Industries Individual State Agency Fiscal Note to SB 6214 S



**Estimated Financial Impact of 2019 House Bill No. 308
Proposed Legislation on Post-Traumatic Stress Disorder
for First Responders without an Accompanying Physical Injury**

Given the significant degree of uncertainty around the assumptions, we also mention that a change in a single assumption would result in a very different estimate. For example, using Washington's 10% PTSD prevalence assumption lowers the estimated annual PTSD claim count to 600 and the total annual cost estimate to \$24 million. Conversely, if more first responders with PTSD file their claim – the amounts could be closer to our original estimate of \$183 million. Utilization is a challenge for all states to determine costs and is not a certainty.

Conclusion

Given the method and assumptions detailed above, we estimate the **potential costs of the 2019 House Bill No. 308 PTSD legislation, as introduced, could initially be \$44 million annually in Ohio if our assumptions, including 38% utilization, hold true.** As the stigma surrounding mental health care reduces through education, those willing to seek treatment for PTSD is expected to increase accordingly.

Qualifications

This actuarial report summarizes the estimates developed by Christopher S. Carlson, FCAS, MAAA and Chief Actuarial Officer of the Ohio Bureau of Workers' Compensation and Daniel Myers, FCAS, MAAA and Senior Director of Actuarial Analysis at the Ohio Bureau of Workers' Compensation. Both Mr. Carlson and Mr. Myers meet the continuing education requirements of the American Academy of Actuaries to issue this report.

**Estimated Financial Impact of 2019 House Bill No. 308
Proposed Legislation on Post-Traumatic Stress Disorder
for First Responders without an Accompanying Physical Injury**

**Exhibit A
Average Claim Cost Assumptions**

In our analysis of House Bill 308, the following key assumptions were made in the development of the cost estimate for PTSD medical and indemnity benefits:

- indemnity benefits would last at most 1 year at 90% of a full years' cost,
- medical benefits would last 1 year, and
- the average injured worker would seek psychological counseling that included prescription drugs

Notwithstanding the adjustments noted above in the Underlying Assumptions section, these assumptions appear to remain reasonable.

The following information underlies the cost per claim estimate:

Occupation	Number of Ohio Workers	Average Annual Indemnity Benefit
Ambulance Driver	1,080	\$14,449
EMS	10,130	\$20,119
Firefighter	33,491	\$31,206
Police	35,399	\$39,169
Total/Average	80,100	\$33,136
Adjusted for HB 308		\$29,765

Treatment Year	Therapy	Pharmacology	Total Medical
1	\$7,500	\$2,500	\$9,369

In our research, we found an estimate from the State of Connecticut that provided a range of potential cost per claim between \$20,000 and \$150,000 without an associated estimate of the number of expected claims. Thus, when reflecting a one-year limitation, our \$40,000 average annual PTSD claim cost estimate also appears to be reasonable.

Appendix D – Resolution by the OP&F Board of Trustees

Resolution of the Ohio Police and Fire Pension Fund Board of Trustees

WHEREAS, it is the primary duty of the Ohio Police & Fire Pension Fund Board of Trustees (OP&F or Board) to administer retirement and disability benefits to full-time municipal police officers and full-time firefighters, and the fiduciary duty to act for their exclusive benefit;

WHEREAS, the Board supports immediate treatment of active public safety employees who are affected by post-traumatic stress arising out of their duty as first responders;

WHEREAS, the Ohio Bureau of Workers Compensation pays temporary compensation and provides medical treatment to injured active employees;

WHEREAS, there is legislation pending in the Ohio General Assembly that would create a new State Post-Traumatic Stress Disorder (PTSD) Fund to pay temporary compensation and provide medical treatment for active public safety employees who are affected by post-traumatic stress disorder arising out of their duty as first responders;

WHEREAS, that the pending legislation would make the OP&F Board of Trustees the trustees of the new State PTSD Fund to administer the temporary compensation paid to active employees and medical treatment for such employees;

WHEREAS, the Board does not have the staff, technology, resources or healthcare and pharmacy network to administer the proposed State PTSD Fund;

Now, therefore be it:

RESOLVED, that the OP&F Board of Trustees has grave concerns about the pending legislation that would make the Board the administrator of the new State PTSD Fund, which the Board believes to be in conflict with its statutory and fiduciary duties;

RESOLVED, that the Board believes that the administration of a State PTSD Fund is the mission and duty of the Ohio Bureau of Workers Compensation, who already has the staff, technology, resources, healthcare and pharmacy network to administer the proposed State PTSD Fund;

RESOLVED, that the Board believes that the following items would have to be resolved for the Board to endorse the pending legislation:

1. A comprehensive actuarial study, as required by Ohio Revised Code Section 742.14(C), to determine the financial impact of covering almost ten times the number of employees in our fund;
2. A stable and uninterrupted revenue source for the State PTSD Fund must be established; similar in structure to the Ohio Public Safety Officers Death Benefit Fund (DBF), created by Ohio Revised Code Section 742.62.
3. A definition of covered employees similar to the DBF is essential;
4. Successful claimants of the State PTSD Fund must be entitled to utilize the Bureau of Workers' Compensation healthcare and pharmacy network free of charge;

5. As all five Ohio state retirement systems already administer permanent disability benefits for their members, temporary PTSD benefits should be paid for **less than** 1 year; and
6. Claims for permanent disability (a condition that will last **more than** one year) based on PTSD should continue to be processed by the employees' retirement system.
7. Liability protection and indemnity for the OP&F Board and staff must be included against claims of breach of fiduciary duty brought by members of OP&F.

RESOLVED, that if these items can be legally and satisfactorily addressed, OP&F is willing to administer the State PTS Fund.

RESOLVED, that if any of these items are not satisfactorily addressed, this Board will remain opposed to being named trustees of the State PTSD Fund.

Resolved, that staff should oppose any legislation on the Board's behalf that does comport with this resolution. The board specifically rejects Amend Sub. HB 308, which does not comply with the above request.

Recorded at Columbus, Ohio, Tuesday, December 15, 2020.

I further certify that on this date I, John J. Gallagher, Jr. as Secretary to the Board of Trustees and Executive Director, have been authorized and qualified to certify the foregoing resolution.

John J. Gallagher, Jr.
Secretary to the Board of Trustees and
Executive Director




CATHERINE HARDEN
Notary Public, State of Ohio
My Commission Expires 07-13-2021

Stephen A. Corvi
Chair of the Board of Trustees

State of Ohio :
County of Franklin : ss:

The foregoing was acknowledged before me, a Notary Public in and for said county and state, on December 15, 2020 by John J. Gallagher, Jr. Secretary to the Board of Trustees and Executive Director of the Ohio Police and Fire Pension Fund for and on behalf of said fund.

Notary Public
My commission expires: 07.13.2021



ⁱ “Local Governments Can’t Fill Jobs that paid \$100k Last Year”, The Dayton Daily News, Josh Sweigart, August 8, 2021.

ⁱⁱ “Police department in Northeast Ohio are desperate to fill open officer positions”, January Keaton, WKYC.com, May 10, 2021,
<https://www.wkyc.com/article/news/local/jobs/police-departments-in-northeast-ohio-desperate-to-fill-open-officer-positions/95-4ef32847-7474-4d22-8679-2c265c8a34bd>

ⁱⁱⁱ “Columbus Police Considers Accepting Hires from other Departments Due to Low Staffing”, Lace Crisp, WBNS10TV, August 26, 2021

^{iv} Violanti, John, “*PTSD Among Police Officers: Impact on Critical Decision Making*”, Community Policing Dispatch, May 2018, vol.11 Issue 5,
<https://cops.usdoj.gov/html/dispatch/05-2018/PTSD.html>

^v American psychiatric Association.

^{vi} defined in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5)

^{vii} VA/DoD Clinical Practical Guidelines, <https://www.healthquality.va.gov/> (2021).

^{viii} Stein, Murray B., Rothman, Barbara O., “175 Years of Progress in PTSD Therapeutics: Learning from the Past”, The American Journal of Psychiatry, 1 June 2018,
<https://doi.org/10.1176/appi.ajp.2017.17080955>

^{ix} Treatment Comparison Chart <https://www.ptsd.va.gov/apps/decisionaid/compare.aspx>

^x <https://doi.org/10.1176/appi.ajp.2017.17080955>

^{xi} “More States Advancing PTSD Coverage for First Responders”, January 25, 2021, Optum Workers’ Comp and Auto No-Fault website,
<https://workcompauto.optum.com/content/owca/owca/en/insights/blog/policy-matters-blog/2021/PTSD-Coverage.html>

^{xii} <https://info.bwc.ohio.gov/wps/portal/gov/bwc>

^{xiii} Clayton, Ann, “Workers Compensation: A Background for Social Security Professionals”, Social Security Bulletin, Vol. 35, No. 4, 2003/2004.
<https://www.ssa.gov/policy/docs/ssb/v65n4/v65n4p7.html>