

# Consultation

## Supporting Document

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Adding correctional officers to the list of workers benefitting from presumptive Post Traumatic Stress Disorder (PTSD) legislation

## MESSAGE FROM THE CHAIR

As WorkSafeNB's board of directors, we are mandated to help keep New Brunswickers healthy and safe in the workplace, facilitate recovery for workers following a workplace injury, optimize our benefit structure and stabilize assessment rates for employers.

Importantly, this work includes a regular review of legislation to ensure the *Workers' Compensation (WC) Act and Occupational Health and Safety Act* best serve you, our stakeholders.

We know our province's correctional officers play a crucial role in ensuring the safety and security of our communities. Their dedication to upholding justice and maintaining order exposes them to physically challenging and emotionally taxing situations.

This public consultation has been launched to seek input on whether WorkSafeNB's Board of Directors should pursue a legislative change under the *WC Act* that would provide a presumptive clause for correctional officers diagnosed with post-traumatic stress disorder (PTSD) just as New Brunswick police officers, firefighters, and paramedics have now.

Your insights are crucial and will help us decide on a direction. Your perspectives will assist us in making an informed decision that reflects the collective interests and needs of correctional officers in New Brunswick and the communities they serve.

We genuinely appreciate your input as we explore ways to improve workers' compensation legislation, and we'll continue to consult you. With your continued collaboration, we can reach our vision of making New Brunswick the safest place to work.

Sincerely,



**MEL NORTON**

WorkSafeNB Chairperson

## SUMMARY

WorkSafeNB is considering pursuing a legislative amendment to include correctional officers in the definition of “emergency response worker”\* under section 7.1(1) of the *Workers’ Compensation (WC) Act*. *To make an informed decision, the board of directors is seeking stakeholder input.* With this change, a confirmed diagnosis for post-traumatic stress disorder (PTSD) for a correctional officer would be presumed work related unless the contrary is shown.

The term “correctional officer” is defined, for the purposes of this consultation, as a worker directly involved in the enforcement of law and order of an inmate in a correctional institution. Examples include correctional officers, guards, and wardens.

The *WC Act* includes a presumption for emergency response workers diagnosed with PTSD. Emergency response workers are currently defined as firefighters, paramedics and police officers.

The decision-making framework for stress claims established by the New Brunswick Court of Appeal and applied today for all professions already recognizes the event is traumatic when the PTSD diagnosis is accepted. The benefit for workers afforded a presumption clause is that once a PTSD diagnosis is confirmed, it is presumed that the PTSD arose “out of and in the course of the worker’s employment” (unless the contrary is shown). For all other workers, in addition to the diagnosis, a determination on work-relatedness must be made through the adjudication process.

The PTSD presumption clause for emergency response workers was introduced in 2016. While there was some discussion in the Legislature around other occupations that could be considered, the focus at that time was on expediting support for first responders.

The *WC Act* is always evolving and WorkSafeNB’s goal is to work collaboratively to propose meaningful and sustainable legislative improvements for today’s workers and employers.

The goal of this consultation is to gather your thoughts on including correctional officers under the definition of emergency response worker. Additional amendments to this definition of emergency response worker may be considered in the future.

Do you support the addition of correctional officers as an occupation title under definition of “emergency response worker” in the *WC Act*?

\* While the term “emergency response worker” is used in the *WC Act*, for the purposes of this consultation, the term “emergency response worker” and “first-responder” can be used interchangeably.

## CONTEXT

Across Canada there are two kinds of presumptive clauses for PTSD. Some provinces use a clause that is legislatively very different from New Brunswick's current clause. In those jurisdictions, the presumption applies to a worker in ANY occupation who has been exposed to a traumatic event in the course of their work. We are not considering adopting

this approach, as it would veer significantly from our current legislative framework. In New Brunswick, the worker must be employed in an eligible profession.

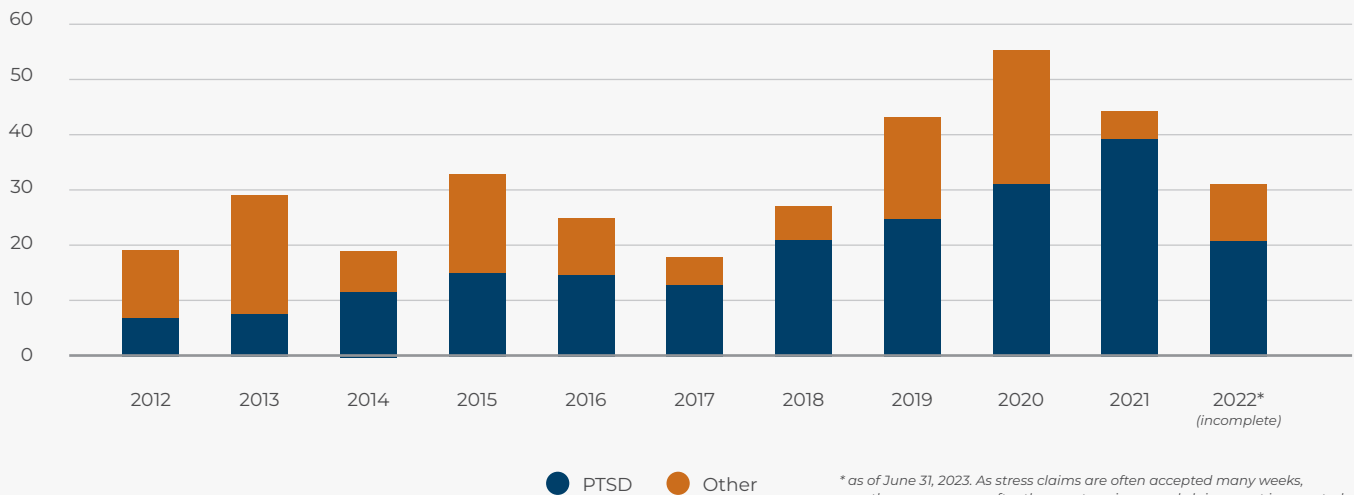
Of the provinces that use an occupation-specific presumptive clause, New Brunswick is the only one that has not included correctional officers.

## CLAIMS' EXPERIENCE FOR CORRECTIONAL OFFICERS

The graph illustrates stress claims for correctional officers accepted by WorkSafeNB since 2012, both for PTSD and other psychological conditions. It is important to note

that stress claims are often accepted many weeks, months, or even years after the event. The count of claims for 2022 and other years is therefore subject to change.

**Stress Claims  
Correctional Officers By Accident Year**



## COST IMPLICATIONS

Almost all PTSD claims for correctional officers have been accepted over the last five years. The addition of correctional officers in the PTSD presumptive legislation is not expected to have a material cost impact. While possible for the presumptive clause to lead to a claim being accepted that may not otherwise have been accepted, it would be exceptional with

the current decision-making framework and the prevalence of traumatic events occurring in correctional facilities.

Correctional officers' workplaces are self-insured, either provincially or federally. The costs of any workplace injuries for correctional officers are paid by their employers and do not affect the assessment rate.



## WHAT ARE OTHER PROVINCES DOING?

The following table illustrates the occupations included for presumption by jurisdictions. All provinces, except New Brunswick and Northwest

Territories/Nunavut have a PTSD presumptive clause for correctional officers.

JURISDICTION	INCLUDED OCCUPATIONS
NB	<p>Emergency response workers (PTSD)</p> <ul style="list-style-type: none"> <li>• Firefighter</li> <li>• Paramedic</li> <li>• Police officer</li> </ul>
NS	<p>Front-line and emergency response workers (PTSD)</p> <ul style="list-style-type: none"> <li>• Continuing-care assistant</li> <li>• <b>Correctional officer**</b></li> <li>• Emergency-response dispatcher</li> <li>• Firefighter</li> <li>• Nurse</li> <li>• Paramedic</li> <li>• Police officer</li> <li>• Sherriff</li> </ul>
ON	<p>First responders and other designated workers (PTSD)</p> <ul style="list-style-type: none"> <li>• FT/PT/volunteer firefighters</li> <li>• Fire investigators</li> <li>• Police officers</li> <li>• Members of an emergency response team</li> <li>• Paramedics</li> <li>• Emergency medical attendants</li> <li>• Ambulance service managers</li> <li>• <b>Workers in a correctional institution**</b></li> <li>• <b>Workers in a place of secure custody or temporary detention**</b></li> <li>• Workers involved in dispatch</li> <li>• Nurses who directly provide patient care and who are not workers in a correctional institution/place of custody or detention</li> <li>• Provincial bailiffs</li> <li>• Probation officers and their direct supervisors</li> <li>• Special constables</li> <li>• Members of a police force other than workers mentioned above and perform work in a forensic ID unit/violent crime unit</li> </ul>

JURISDICTION	INCLUDED OCCUPATIONS
AB	<p>First responders and additional occupations (PTSD plus additional presumption on place for same occupations diagnosed with another psychological injury and have been exposed to a traumatic event)</p> <ul style="list-style-type: none"> <li>• Firefighter</li> <li>• Paramedic</li> <li>• Peace officer</li> <li>• Police officer</li> <li>• <b>Correctional officer**</b></li> <li>• Emergency dispatch</li> </ul>
BC	<p>Workers in an eligible occupation who have been exposed to a traumatic event at work, includes any mental or physical condition that may arise from exposure to a traumatic event.</p> <ul style="list-style-type: none"> <li>• <b>Correctional officer**</b></li> <li>• Emergency medical assistant</li> <li>• Firefighter</li> <li>• Police officer</li> <li>• Sheriff</li> <li>• Emergency response dispatcher</li> <li>• Health care assistant</li> <li>• Nurse</li> </ul>
NL, PE, MB, SK, YK, QC	<p>Broad presumption for <b>all workers</b> diagnosed with PTSD or other trauma-related psychological disorder when it can also be demonstrated that the worker was exposed to a traumatic event(s) at work.</p>
NT/NU	<p>No presumption for psychological injuries</p>

\*\* WorkSafeNB would categorize occupation as a correctional officer.

# QUESTION

Do you support a change to legislation that would include correctional officers in the definition of emergency response workers under the *Workers' Compensation Act*? With this change, a confirmed diagnosis for post-traumatic stress disorder (PTSD) for a correctional officer would be presumed work related unless the contrary is shown.

**Please enter the response in our survey now.**

**OPEN SURVEY**