

Stakeholder Consultation RESULTS

In consideration of including correctional officers in the definition of emergency response workers

—○ IN THIS DOCUMENT

3 INTRODUCTION

4 BACKGROUND

5 CONSULTATION METHODOLOGY

6 STAKEHOLDER RESPONSE

7 RESULTS SUMMARY

14 CONCLUSION

INTRODUCTION

In summer and fall of 2023 WorkSafeNB launched a public consultation exploring the possibility of amending legislation to include correctional officers in the definition of “emergency response worker” under section 7.1(1) of the *Workers’ Compensation (WC) 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.

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 already includes a presumption for emergency response workers diagnosed with PTSD. Emergency response workers are

currently defined as firefighters, paramedics and police officers. This proposed change would see correctional officers added to this list.

To make an informed decision, the board of directors has sought stakeholder input and this report will share the feedback we received.

We are immensely grateful to the hundreds of individuals who participated in our public consultation, sharing their valuable feedback and personal experiences on a topic that clearly holds deep meaning for them. The wealth of insights we’ve received from this group of contributors has been truly remarkable and has greatly enriched our understanding of this important subject. We thank each participant for their contributions.

BACKGROUND

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.

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.

Almost all PTSD claims for correctional officers have been accepted over the last five years in New Brunswick. Therefore 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. Therefore, any costs of workplace injuries for correctional officers are paid by their employers and do not affect the assessment rate.

CONSULTATION METHODOLOGY

This consultation launched on Aug. 8, 2023, with background information provided to the public on the amendment being considered.

We invited public feedback through an online survey. The consultation was featured prominently on the WorkSafeNB homepage, directing visitors to the consultation and supporting material. WorkSafeNB also featured the consultation in regular social media posts on Twitter, LinkedIn and Facebook.

Targeted emails were also sent to key stakeholders, including:

- The Union of Canadian Correctional Officers (UCCO)
- Employers of correctional officers
- Correctional officer training institutions
- Workers in occupations that are currently defined as emergency response workers in other jurisdictions with similar presumptive clauses/Employers that employ workers in these professions

WorkSafeNB staff also met in-person with stakeholders on request, including staff of GNB's Department of Public Safety- representing the employer of correctional officers at provincial jails- and the Injured Worker Advisory Committee (IWAC). We also met with The Union of Canadian Correctional Officers prior to the launch of the consultation.

Although only correctional officers are being considered for addition to the definition of emergency response workers in legislation at this time, the consultation was shared by our President and CEO during a presentation he made to the New Brunswick Nurses Union during their annual general meeting, with an

invitation to complete the survey with their feedback on seeing the emergency responder list expanded further to include their profession.

The consultation remained open for three months and closed Nov. 15, 2023.

Third party survey tool, Typeform, allowed respondents to answer a direct yes/no question that asked: **“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.”**

The survey also provided an optional opportunity to share any additional feedback on this topic.

The survey was confidential and anonymous; however, respondents did have the option to identify themselves if they wished, including their name, organization and the option to identify themselves as a correctional officer, employer of correctional officers, or provide their own description of their connection to the topic.

This report quantifies the responses, identifies a response rate, and gives an overview of the opinions of those stakeholders who participated. The consultation results are one piece of information considered in the decision by WorkSafeNB's board of directors whether to pursue the legislative change or not.

STAKEHOLDER RESPONSE

The targeted promotion of this consultation led to 374 responses to the survey. To date, this is the largest response ever received on a WorkSafeNB consultation, with 229 responders (61.2 per cent) identifying themselves as correctional officers living in New Brunswick.

Additionally, verbal feedback was recorded from the GNB meeting with nine staff in attendance and one letter submitted on behalf of the five members of IWAC.

374
RESPONSES

The level of response speaks to how important this topic is for New Brunswickers and people working in this field.

Please note: Some responses have been edited for clarity



RESULTS SUMMARY

THE QUESTION:

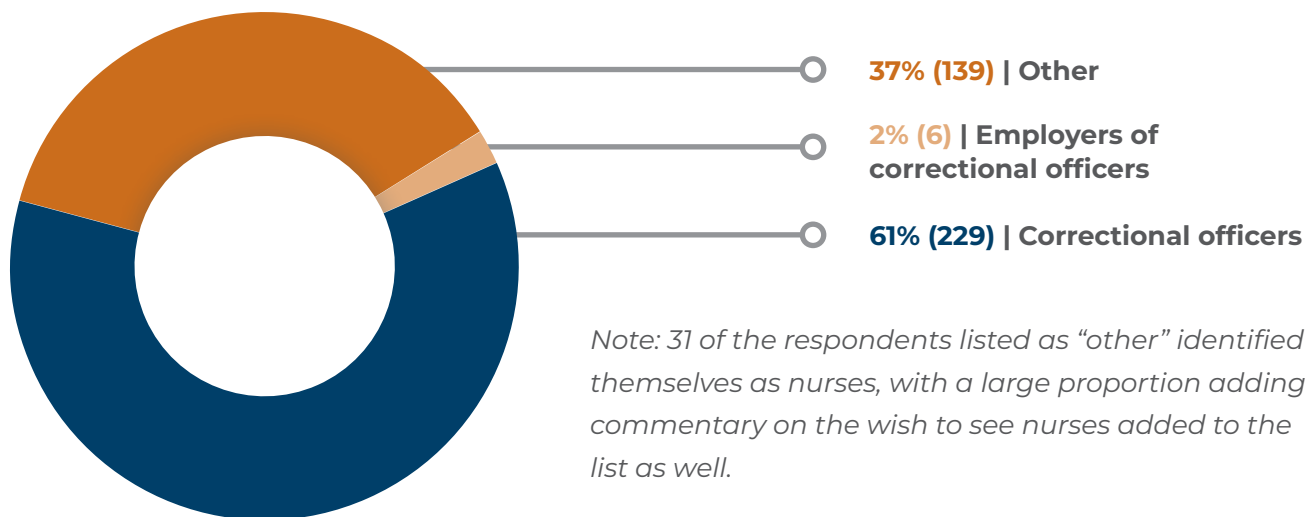
Do you support a change to legislation that would include correctional officers in the definition of emergency response workers under the Workers' Compensation Act? With this change, a confirmed diagnosis for post-traumatic stress disorder (PTSD) for a correctional officer would be presumed work related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

THE ANSWERS:

99.5% of respondents on the survey answered "Yes"

372 Yes
2 No

BREAKDOWN OF RESPONDERS:



All survey respondents identifying as employers of correctional officers agreed with the proposed change.

All respondents who identified as "other" on the survey also agreed with the proposed change. These 139 respondents varied. Examples included: family members of correctional officers, retired correctional officers or those who

work outside our province, trainers, individuals with other occupations inside jails or prisons, registered nurses, and interested citizens.

The volume of responses and agreement in answers speaks to the desire to align with other jurisdictions in providing correctional officers in New Brunswick with this presumption as they benefit from in the rest of Canada.

RESULTS SUMMARY

FEEDBACK

39% of respondents also chose to provide additional feedback.

ALIGN WITH OTHER JURISDICTIONS

Many respondents commented on their desire to be treated the same as their colleagues in the rest of the country.

“ WorkSafeNB is one of the last places that doesn't recognize Correctional Officers as first responders. I do believe this is an overdue important change.”

CORRECTIONAL OFFICER

“ Like our neighboring province Nova Scotia, I think New Brunswick needs to follow suit and all any and all TBI occurred on the job for longer than 6 months to be assumed PTSD.”

PARAMEDIC



CORRECTIONAL OFFICERS ARE EMERGENCY RESPONDERS

Others spoke to the situations that arise inside of jails and prisons that require correctional officers to act in an emergency response capacity.

“ For this profession not to be recognized while other frontline services are is very insulting.”

CORRECTIONAL OFFICER

“ This legislation is long over do. The work done by myself and others in a correctional environment can have a huge impact on one’s life after any incident. We see many things that other first responders see in their jobs.”

CORRECTIONAL OFFICER

“ Correctional officers are faced with many emergency situations, from medical and fire-related emergencies to violent assaults against clients and correctional officers. We are the first, and sometimes only responders (when it comes to violent assaults, disturbances and riots within our facilities). We are first on scene and the last to leave, once a situation has concluded. We rarely, if ever require police assistance to resolve incidents within our facilities. We always secure the scenes before fire and / or EMTs access the area. We ARE THE FIRST RESPONDERS in unique environments that consist of “communities” of involuntarily confined clients, that have been deemed by the Courts to present a significant risk to public safety.”

CORRECTIONAL OFFICER

“ Correctional Officers are first responders in a place where all you experience is bad things every day. We are the police inside walls filled with the most dangerous people from society. We deal with violence and threats on a daily basis. If there is a grievous bodily injury, we are the paramedics before they arrive. We are forgotten because most people do not know what really happens inside prison walls.”

CORRECTIONAL OFFICER

“ Correctional Officers should definitely be included in such legislation. Correctional officers play an important role in public safety. They are tasked with a very challenging profession in the harshest of environments. They deal with assaults, stabbings, murders, suicides, overdoses, fires and other medical emergencies on a daily basis in our provincial and federal facilities. They deserve the same recognition as other agencies under the public safety umbrella.”

CORRECTIONAL OFFICER

MENTAL HEALTH ASPECTS

Many respondents shared personal stories of trauma and the impacts on mental health for themselves or their family members or their coworkers.

“ I represent the members of the Union (CUPE Local 1251). The situations that these government employees face on a daily basis is difficult to hear and the trauma faced by them is real.”

UNION REPRESENTATIVE

“ The conditions and the work that a correctional officer does and the stuff that we see on a regular basis is not normal and hard to describe to people that don't work in it.”

CORRECTIONAL OFFICER

“ I see a huge difference in my husband during the past few years. He has seen so many traumatic incidents at work that it changed him permanently.”

SPOUSE OF A CORRECTIONAL OFFICER

“ Being a correctional officer is a very stressful job and seeing the violence first-hand that takes place within a correctional facility takes its toll on you and your family.”

CORRECTIONAL OFFICER

“ After 23 years of service I was diagnosed with PTSD and generalized anxiety disorder. While it was tied to a single incident, in reality it was a culmination of years, surrounded by violence, threats of violence and responding to grisly scenes of assault, murder and suicide. All my efforts to maintain balance in my life did not protect me from a psychological injury.”

CORRECTIONAL OFFICER

BENEFITS OF A PTSD PRESUMPTION

Feedback also addressed how many hope the legislative change would help their coworkers and the additional stress that can come from waiting to find out if a claim is accepted.

“ I've been an officer for 21 years. I've had my ups and downs over the course of my career. The emergency situations that I have had to respond to I would not wish upon anyone. In a prison we are the paramedics, the RCMP and the firefighters all wrapped up into one package. I have struggled with PTSD in the past and thankfully my claim was approved but I shouldn't have to worry about that claim being approved during the wait period. If my doctor diagnoses me with PTSD from work related stressors it really should be automatic.”

CORRECTIONAL OFFICER

“ I am a 25-year correctional officer currently under a work accommodation due to PTSD. I support this proposed change to legislation because I AM THIS LEGISLATION...”

CORRECTIONAL OFFICER

“ From someone who suffers from PTSD, the support received allows officers to get proper help without added anxiety. Thank you.”

CORRECTIONAL OFFICER

“ I went 6 months without a paycheque and jumped through countless hoops to have my claim accepted.”

CORRECTIONAL OFFICER

DESIRE TO SEE MORE OCCUPATIONS ADDED

Many respondents identifying as nurses responded to this consultation to request consideration for their profession to be included in the definition of emergency response worker as well in order to review the PTSD presumption. Other respondents spoke to the need to include other professions that require them to work regularly with convicted criminals inside prisons and jails.

“ Include nurses as first responders as well.”
REGISTERED NURSE

“ I believe Nurses and all Health Care Workers should also be included in this presumptive legislation. We know that the prevalence of violence against Nurses and HCW is increasing and there are numerous examples in our own province. There needs to be consideration for them as well.”
REGISTERED NURSE

“ ...If wardens are to be included in this change, who have limited if any direct contact with inmates, the change should also include institutional parole officers, programs officers and nurses.”
CORRECTIONAL OFFICER

“ Other employees of corrections who work with offenders should also be included.”
FEDERAL GOVERNMENT EMPLOYEE



CONCERNS FROM EMPLOYERS

While no employers rejected the proposed change, feedback did include comments of concern for implementation during the in-person meeting with staff. The overall message from employers was to get help quickly to those who need it and help with return to work.

The concerns ranged in topic:

- that a legislative change would cause the number of claimants to increase, with some receiving benefits that should not,
- that there could be an impact on getting claimants back to work,
- that those others who works in professions inside the jails or prisons will still not be covered by the presumption when their coworkers are.

“ Vicarious trauma can be equally traumatic. Administrators still work within the secured core. They are not physically separate. Same for the cooks and nurses... To be fair, vicarious or direct trauma know no boundaries. Some in the group noted that in other provinces, the presumption is listed more broadly as “Workers in a correctional facility”.”

PROVINCIAL EMPLOYER REPRESENTATIVE

“ I am concerned about adding it. I was a correctional officer. I concur with the experiences. I’m more concerned with how it will be administered. Right now, the staff that need to make a claim, they go off and apply for support- they are getting it. If they get turned down, they get it on appeal. I feel there is a degree of rigour right now that is being applied and it could be a free for all.”

PROVINCIAL EMPLOYER REPRESENTATIVE

“ Based on compensation levels, in some places like NS, officers now receive 109% of their pay. What happened? Claims jumped substantially there. Everyone put their hand up, because they put in the 9% to cover overtime or whatever they would have made.”

PROVINCIAL EMPLOYER REPRESENTATIVE

Conclusion

This public consultation resulted in the largest response rate WorkSafeNB has received on any consultation to date and while some concerns for implementation were raised, we received nearly complete agreement from respondents that this legislative amendment should be pursued.

WorkSafeNB thanks all respondents for taking the time to share their opinions on this consultation. The level of response makes clear that this is a subject deeply important to many New Brunswickers and the answers received will be taken into consideration during the regulatory amendment process.