



AWARENESS OF PTSD IMPACT ON YOUR FAMILY, CAREER AND PRIVACY RIGHTS IS ESSENTIAL

By Scott A. O'Mara

Law1199.com Newsletter 2019 Issue #12 sets forth information regarding Senate Bill 542, which is designed to provide protection to safety workers and their families regarding post-traumatic stress disorders which develop or manifest as a result of the extraordinarily stressful situations which safety officers are exposed to on a continuing basis in the course of their work.

Even with the passage of SB 542, I've seen situations where employers, via their supervisors, seek to obtain information from workers by having a sergeant, lieutenant, captain, battalion chief, division chief or chief go to a worker's residence to speak with the worker regarding what has developed or occurred in the work situation, and find out what the worker's current symptomatology is. In addition, the sergeant, lieutenant, captain, battalion chief, division chief or chief will inquire as to what existing factors outside the work situation might have created the worker's symptomatology.

While Senate Bill 542 created a presumption of work-related causation, all presumptions potentially can be rebutted. Also, it is not uncommon for people who have stress in their work situation because of traumatic work experiences and events to have a carryover of that stress into their domestic life in the form of changes in memory, concentration and/or libido, as well as misplaced anger. Some workers will try to resolve these problems through self-treatment with medications and/or alcohol. However, these self-treatment protocols are not ones which are approved, and they have not been shown to be successful for stress-related conditions.

Employers trying to deny post-traumatic stress disorder claims – or at least mitigate their potential losses – will dwell upon any changes which occur in a worker's domestic situation. In particular, if a case involves domestic violence, employers will try to buttress their denial of the psychological component of an injury claim by maintaining that it results solely from the worker's domestic situation, not the work situation.

Unfortunately, supervisors who seek out this information many times will do so unilaterally without having the approval of their department. Then, once this information is obtained, it will be used by the adjusting agency, whether it be the self-insured or the claims adjuster, to mitigate or deny the psychological component of a claim, or to minimize the amount of compensation the injured worker can receive.

Law 1199.com Newsletter 2016 Issue #11 contains a discussion of the issue of privacy. This issue greatly limits employers' ability to seek out information. Information can be sought by adjusters or through outside investigators hired by adjusters if the worker does not have an attorney. An injured worker, if approached by the employer or supervisor, should recognize the privacy issue and be aware that they do not have an obligation to share certain information with them.

The medical evidence in a case is developed based upon the communication the injured worker has with the doctor, and there unfortunately is a tendency to focus on a narrow aspect of what is actually occurring instead of the broader picture. The narrow aspect could be that the worker is subject to some type of disciplinary action because of the demeanor or attitude the worker has towards supervisors, co-workers or the public.

If the psychologist or psychiatrist involved in a case does a complete analysis, they will speak to the injured worker as to their relationships with their parents, their siblings and their spouses, and if a strong relationship has existed, that then fortifies the fact that the worker's current psychological impairment indeed might emanate from the extraordinary exposures that safety officers have to death, harm and destruction.

An injured worker's preparation for a meeting with a psychologist or psychiatrist is paramount to enable a complete expression as to what has occurred in their life. It's not just the domestic situation or the work situation, but a combination of both.

In a majority of the cases that we see, the worker comes with the background of having a long period of employment, and having a strong relationship with their parents, but a gradual erosion of the domestic relationship has occurred, and they might be going through a second or third divorce. What has happened in many of those situations is that the family has grown apart because of the injured worker's inability to communicate and deal with the stress which has evolved in the work situation.

It is significant that when safety workers express a true recollection of the events which have occurred throughout their life — both domestically and at work — they recognize the connectivity of their work to their domestic life, and how their work impacts their domestic situation. If they are involved in situations where somebody has been critically injured, burned, shot or run over — perhaps even a young child — these are not events which are easily dismissed from mind. They cannot simply be “turned off” and forgotten. Instead, these horrible events haunt the mind, day after day, week after week, month after month, and when all these flashbacks are added together, they become a precipitating factor in the acknowledgment legislators had of the dangerous and stressful work performed by safety officers when they passed Senate Bill 542.

Again, however, workers need to anticipate that inquiries will be made, not just regarding their work situation, but their domestic situation as well. Therefore, they need to be able to articulate honestly, truthfully and accurately what has occurred throughout their life, while at the same time giving recognition to the significance of the work they perform as safety officers protecting our society.

If your supervisor wants to meet with you to sit down and talk regarding the events of your employment, the treatment you are receiving, what your diagnosis is, etc., keep in mind that they are very limited as to what they can speak to you about. The best approach is to direct your supervisor to speak with your attorney, as your attorney can provide the appropriate information. The same is true regarding discussions with the adjuster or third-party administrator, so the information provided will not be disseminated by the worker.

The thought you should have prior to seeing the psychologist/psychiatrist is that their template is not only to examine what currently is going on; they also will go into great detail regarding your lifetime events.

Recently, I completed a case where the worker unfortunately had been married several times and was terminated from his employment because of his demeanor and attitude towards his supervisors. His treating doctors, at the onset of his problems, documented horrendous shootings in which he had been involved; vehicular accidents in which young people were killed; terrible situations where people were burned to the point of becoming “crispy critters”; and other horrific events this individual had witnessed throughout the course of his career.

Because of this documentation, the forensic evaluator was able to recognize that the domestic challenges posed by the worker’s divorces were directly connected to his terrible work exposures. Because the evaluator was able recognized this, the worker’s condition was found to be job-related. But even with this, the worker’s supervisors would casually drop into his house to talk with him — initially about sports, his car, etc., but then shift the conversation to his work situation in an attempt to obtain additional information regarding factors his employer could use to eviscerate his injury claim. I stopped this inappropriate conduct by the employer.

Once the client shared this information with his office, we stopped the unilateral inquiries which were being made by the employer and were inappropriate. When the case went to trial, the judge was able to recognize the correctness of the worker’s history and the forensic evaluations, and the worker ultimately was able to obtain the benefits of medical care to cure or relieve his injuries, and begin a new career.

Awareness is something which is hard to have, but you are entitled to privacy, and even with the passing of SB 542, you should be aware that your employer or supervisor, or the adjuster, may do what they can in an attempt to minimize, mitigate or remove your injury claim.



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