



# ANDRÉ JACQUE

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*Testimony before the Senate Committee on Labor and Regulatory Reform  
State Senator André Jacque  
February 8<sup>th</sup>, 2021*

Chairman Nass and Members of the Committee on Labor and Regulatory Reform,

Thank you for the opportunity to provide testimony in support of Senate Bill 11, the Public Safety PTSD Coverage Act & Consensus Worker's Compensation Advisory Council Reforms. This very bipartisan legislation was drafted in partnership with a coalition of Wisconsin's public safety first responders to enable them to receive the necessary help to properly heal. I am pleased that a bipartisan majority of this committee are co-authors of this proposal and have helped significantly in advancing this discussion last session and now this session.

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

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

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

This bill eliminates the "greater dimensions" requirement for coverage of a public safety first responder's work-related PTSD diagnosis, recognizing that while a single event can trigger PTSD, so can repeated exposure to dangerous high stress events (the emotional responses to which may often be very different between any two people). SB11 requires a preponderance of evidence standard and that the mental injury is not the result of or first reported during a good-faith employment action by the person's employer. Additionally, this bill includes two key compromises between all stakeholders of 32 weeks of covered treatment after the injury is first reported and a life time cap of three applications. Helping public safety employees with the treatment needed to



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recover from PTSD and return to work also reduces the long term costs of duty disability and training of new personnel.

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

This committee voted in favor of this legislation in a bi-partisan fashion in the 2017 and in the 2019 session moved it unanimously. It passed the Senate in 2019 on a voice vote and was amended with the additional worker's compensation consensus items, now built into SB11, and voice voted by the Assembly in early spring of 2020. As we look to finally get these critical reforms implemented, SB11 continues to enjoy strong bi-partisan co-sponsorship this Session that I strongly believe will lead to passage once again in both Chambers and it signed into law. I want to thank the members of the Worker's Compensation Advisory Council and its Labor and Management Caucuses for their consideration and support in development of the language of 2019's Senate Bill 511 and now Senate Bill 11. Please join myself, nearly 30 of my fellow co-authors and co-sponsors, the Wisconsin Professional Police Association, Wisconsin Chiefs of Police Association, Professional Fire Fighters of Wisconsin, Wisconsin Sheriffs and Deputy Sheriffs Association, and Badger State Sheriffs' Association, Wisconsin Manufacturers & Commerce, and Wisconsin AFL-CIO in supporting the Public Safety PTSD Coverage Act.

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# Wisconsin Legislative Council



Anne Sappenfield, Director  
Jessica Karls-Ruplinger, Deputy Director

TO: SENATOR ANDRE JACQUE

FROM: Margit Kelley, Senior Staff Attorney

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

DATE: December 6, 2019

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

## BACKGROUND

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

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

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

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

## **THE BILL**

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

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

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

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

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

## **QUESTIONS FROM THE CITY OF MILWAUKEE**

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

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

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

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

MSK:ty

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# Wisconsin Legislative Council



Anne Sappenfield  
Director

TO: SENATOR ANDRÉ JACQUE AND REPRESENTATIVE CODY HORLACHER

FROM: Margit Kelley, Senior Staff Attorney

RE: Claims for Worker's Compensation for Post-Traumatic Stress Disorder by Police Officers and Firefighters Under 2021 Senate Bill 11 and Companion 2021 Assembly Bill 17

DATE: February 4, 2021

This memorandum briefly describes the provisions of 2021 Senate Bill 11 and companion 2021 Assembly Bill 17 (collectively, "the bill") that relate to a worker's compensation claim by a police officer or full-time member of a fire department for post-traumatic stress disorder (PTSD). The memorandum also discusses, more particularly, the relationship of those provisions to duty disability benefits.

## BACKGROUND

Under current law, a qualifying employment-related mental injury, including PTSD, is covered by worker's compensation. [s. 102.01 (2) (c), Stats.] However, the Wisconsin Supreme Court has held that, in order for a mental injury to be compensable, a person must show that it was caused by unusual stress that is outside the day-to-day emotional strain and tension that may be experienced by all employees.

Specifically, in *School District No. 1 v. Wisconsin Department of Industry, Labor, and Human Relations*, the Wisconsin Supreme Court held that mental injury is covered by worker's compensation only if it results from a situation of greater dimensions than the day-to-day mental stresses and tensions that all employees must experience. This is commonly referred to as the "unusual stress" test or the "greater dimensions" test. [62 Wis. 2d 370 (1974).]

Later court decisions have interpreted this to mean that the stress that caused the disorder must be unusual for someone similarly situated in that type of occupation. In particular, if an event could foreseeably be encountered by personnel in a particular field, then it would not be compensable.

For example, in one decision, the Wisconsin Court of Appeals held that a special weapons and tactics (SWAT) team officer experienced an event that could foreseeably be encountered when the officer shot and wounded a suspect who was armed with a knife. In contrast, in another case the court held that a deputy sheriff experienced a grisly event that was out of the ordinary when transporting a person in custody who self-inflicted fatal wounds with a scalpel that had not been discovered.<sup>1</sup> [*Bretl v. LIRC*, 204

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<sup>1</sup> For additional examples of court decisions applying the unusual stress test, see *Swiss Colony, Inc. v. DILHR*, 72 Wis. 2d 46 (1976); *Probst v. LIRC*, 153 Wis. 2d 185 (Ct. App. 1989); *Jensen v. Employers Mut. Cas. Co.*, 161 Wis. 2d 253 (1991); and *Burt-Redding v. LIRC*, Wis. Ct. App. No. 2016AP916 (July 18, 2017, unpublished).

Wis. 2d 93 (Ct. App. 1996); and *County of Wash. v. LIRC*, Wis. Ct. App. No. 2012AP1858-FT (Jan. 9, 2013, unpublished).]

The unusual stress test from *School Dist. No. 1* has also been applied to duty disability cases. The duty disability program provides a lifetime disability benefit for persons in state or local protective occupations who have a work-related permanent disability. [s. 40.65, Stats; and *Random Lake v. LIRC*, 141 Wis. 2d 559 (Ct. App. 1987).]

## **THE BILL**

The bill creates specific circumstances in which PTSD may be a covered injury, if all other worker's compensation requirements are met.<sup>2</sup>

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

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

The bill limits the period of disability to 32 weeks from the first report of the injury for which worker's compensation can be paid to a law enforcement officer or full-time member of a fire department for a mental injury that results in PTSD. The bill also specifies that compensation for PTSD is limited to three times in the person's lifetime. The lifetime limit on receiving compensation for PTSD applies regardless of changes in employment.

The bill does not modify the unusual stress test, which would continue to apply under current case law for other work-related mental injuries, such as anxiety disorder or depression. The unusual stress test would also continue to apply to PTSD for other personnel not covered by the bill, such as volunteer firefighters and emergency medical services practitioners, or firefighters and emergency medical services practitioners with a private company.

## **APPLICABILITY TO DUTY DISABILITY**

You asked, in particular, whether the provisions of the bill would apply to a duty disability claim for persons in state or local protective occupations. Very briefly, the answer is no.

First, the language of the bill itself amends only the worker's compensation provisions under ch. 102, Stats., and does not amend the duty disability provision in s. 40.65, Stats.

Second, although there is language under the duty disability provision that applies certain worker's compensation provisions, that incorporation is limited to the procedural aspects for hearing an appeal.

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<sup>2</sup> The bill also includes certain other worker's compensation provisions from 2019 Senate Bill 673, not related to PTSD claims, and not addressed in this memorandum, which were agreed upon and recommended by the worker's compensation advisory council.

Under the duty disability provision, the standards for determining whether a person has a disability that qualifies for duty disability benefits are provided in a separate subsection from the procedural aspects. The separate subsection that provides the disability standard does not incorporate the standards for determining whether an injury is compensable under worker's compensation. [s. 40.65 (2) (b) 4. and (4), Stats.]

Third, while the provision under the bill that creates a standard for PTSD is placed among the procedural statutes incorporated in the duty disability provision, unlike those procedural aspects of worker's compensation, the provision in the bill limits its applicability to determining whether a mental injury qualifies as a **compensable injury under the worker's compensation chapter**. In other words, although the bill creates an evidentiary standard, it is not a procedural standard of the type identified in the duty disability provision, and by its own language, it is limited to a determination of whether a claim is compensable under the worker's compensation chapter.

Lastly, it may be noted that the *Random Lake* decision, cited above, which applied the unusual stress test to duty disability claims, acknowledged that the worker's compensation statutes stand separately from the duty disability statute.

In *Random Lake*, the Wisconsin Court of Appeals noted the fact that the decision in *School Dist. No. 1* was made in a worker's compensation case under ch. 102, Stats., but the court concluded that the policy behind the unusual stress test also exists in duty disability cases under s. 40.65, Stats. The court noted that the "same considerations" are present in both contexts, including the need to have an effective method of evaluating a claim of mental injury without opening the "floodgates" of mental injury claims. [*Random Lake*, at 565 to 566.]

In other words, the court in *Random Lake* found that the *reasoning* applied in *School Dist. No. 1* was persuasive. The court found that the policy behind the decision in the worker's compensation case was equally applicable in the circumstance of a duty disability case, and should have been applied by the administrative hearing examiner. The court did not find that the worker's compensation laws themselves applied.

In summary, the bill does not modify the unusual stress test that currently applies to a duty disability claim for a permanent mental injury. As noted under the bill description above, even for worker's compensation cases, the bill does not nullify the holding from *School Dist. No. 1* for all circumstances. The bill removes the unusual stress test only in the specific circumstance of a worker's compensation claim by a law enforcement officer or a full-time member of a fire department for a work-related mental injury that results in PTSD.

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

MSK:jal



# CODY HORLACHER

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February 8<sup>th</sup>, 2021

Chairman Nass and Senate Labor and Regulatory Reform Committee Members,

Thank you for holding a Public Hearing on SB 11 related to public safety PTSD coverage and consensus worker's compensation advisory council reforms.

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

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

This bill eliminates the "greater dimensions" requirement for coverage of a public safety first responder's work-related PTSD diagnosis, recognizing that while a single event can trigger PTSD, so can repeated exposure to dangerous high stress events (the emotional responses to which may often be very different between any two people). SB 11 requires a preponderance of evidence standard and that the mental injury is not the result of or first reported during a good-faith employment action by the person's employer. Additionally, this bill includes a key compromise between all stakeholders of 32 weeks of covered treatment after the injury is first reported. Helping public safety employees with the treatment needed to recover from PTSD and return to work also reduces the long term costs of duty disability and training of new personnel.

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

SB 11 is supported by the Wisconsin Professional Police Association, Wisconsin Chiefs of Police Association, Professional Fire Fighters of Wisconsin, Wisconsin Sheriffs and Deputy Sheriffs Association, Badger State Sheriffs' Association, Wisconsin Independent Businesses, Wisconsin Manufacturer's & Commerce, and the Wisconsin State AFL-CIO.

This legislation has been presented to the Wisconsin Worker's Compensation Advisory Council and approved by both the Labor & Management Caucuses, and includes a number of provisions from their previous consensus proposal to the legislature.

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




# WISCONSIN PROFESSIONAL POLICE ASSOCIATION

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

## MEMORANDUM

**DATE:** February 8, 2021

**TO:** SENATE COMMITTEE ON LABOR AND REGULATORY REFORM

**FROM:** Jim Palmer, Executive Director  
Wisconsin Professional Police Association 

**RE:** 2021 Senate Bill 11

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Representing over 10,000 members from more than 300 local association affiliates, the Wisconsin Professional Police Association (WPPA) is the state's largest law enforcement group. Our mission is to protect and promote public safety, as well as the interests of the dedicated men and women that serve to provide it. In that vein, we offer this memorandum to express our ardent **SUPPORT of 2021 Senate Bill 11**, which would create specific circumstances in which post-traumatic stress disorder (PTSD) may be a covered injury under Wisconsin's Worker's Compensation Laws.

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

Since 1974, however, the medical community's understanding and acceptance of PTSD has changed dramatically. The diagnosis and treatment of PTSD is now well-established, and many states throughout the country are updating their worker's compensation laws to enable officers to get the help they need and deserve. Medical professionals and public policymakers across the United States have demonstrated a growing recognition of PTSD and of the obligation to take care of those that incur this devastating mental injury in the course of their service to their communities. SB 11 reflects the value that we ought to place in the duties performed by our dedicated first responders and take care of those after they have suffered in their service to protect us.

The measure before this committee has approved by the Wisconsin Worker's Compensation Advisory Council, and it enjoys widespread support in both chambers of the legislature. For that reason and those outlined herein, we respectfully request that this committee approve SB 11 as soon as it is possible to do so in order to advance this reform of extraordinary importance to our law enforcement community and other first responders.

Thank you in advance for your consideration.

# WISCONSIN PROFESSIONAL POLICE ASSOCIATION

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

## MEMORANDUM

**DATE:** February 8, 2021

**TO:** SENATE COMMITTEE ON LABOR AND REGULATORY REFORM

**FROM:** Jim Page, retired  
Onalaska Police Department

**RE:** 2021 Senate Bill 11

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If I had my preference I would be addressing you in person, but I appreciate the opportunity to share my story.

On March 29th 2010 I responded to a domestic disturbance on a mutual assist agreement with the La Crosse Co Sheriffs Department. The call was an estranged husband had entered his wife's house. Two of his 3 daughters were in the house at the time. Following an argument, he stabbed his wife 2 times. She fled and the girls were able to lock him out of the house. He then set the house on fire with his girls in it. When I arrived with a deputy we got the girls out of the house and cleared the rest of the house, but didn't find the husband. We went outside to find him. The house was fully engulfed, there were explosions from cars in the garage and windows blowing out of the house. As we were going to move our squads away from the fire the father came from the back yard with a butcher knife in his hand. He locked eyes with me and never looked away. I was yelling commands to get on the ground and to drop the knife. He refused and kept coming. As he got about 10 feet away from me he brought the 15" knife over his head so he could stab downward. I was forced to shoot him. That decision I'm okay with. I don't regret it.

This call was very dynamic, but it doesn't rank in the top 10 of horrible calls that I've responded to. I am frequently reminded (especially at night when it's quiet or I'm trying to sleep) of 18 month old Sophie being strangled between the top of a playpen and a heavy box. Her caretaker put the box on top of the pen to keep her inside. Also, 23 year old Malcolm who went missing. He was found after 2 weeks hanging from a noose. It was in July as you can imagine the scene was one from a horror movie. Another is 26 year old Neala. She walked away from a bar at bar time in frigid temperatures. At about 830 that night (18 hours after she left) we were looking for her in a swampy area with train tracks going through it. I looked through a culvert under the tracks. She wasn't in there. I turned around and she was frozen in the ice with her eyes wide open, staring at me. Her fingertips were worn down to bleeding from her trying to claw her way out of the ice.

I understand that these descriptions can be vivid and quite disturbing (nearly any officer could write a very similar story). I tell them to illustrate that many of the calls that we respond to don't just go away. They linger and haunt for years to come. I have had counseling, I've had medication for depression, anxiety, sleep problems and nightmares. Real life police work is very rewarding. I LOVED MY CAREER! Also, it's not at all like TV would have you believe. Many of us end up trying to address these issues on our own. Many turn to self-medication, alcohol, drugs and divorce among other issues.

# WISCONSIN PROFESSIONAL POLICE ASSOCIATION

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

I was able to go back to work about a month after the shooting. I was on the road for about two and a half months. I had a meltdown in the squad room of the Onalaska Police Department. At this time I was diagnosed with PTSD and I didn't see the inside of a squad for 7 months. I was able to keep working for 4 more years, but the traumatic calls kept coming. My last two days taking calls for OPD consisted of a friend of mine since childhood and a sergeant with the La Crosse Co Sheriffs dept shot himself. The next morning, I took a call of an elderly man that, according to the caller, had fallen. Upon my arrival I found a 70ish year old, George that had put a 44 magnum to his temple. The scene was horrific and I'll spare you the details. But that, coupled with my friend's suicide ended a huge part of my life. My mind couldn't ignore trauma and I couldn't keep bringing it home to my family - who had also been deeply impacted.

This is when I had to apply for worker's compensation benefits. I understand that there are procedures that have to be followed. The City of Onalaska was very supportive of me receiving workers comp. Unfortunately, a diagnosis of PTSD, when looked at by the insurance company (CVMIC) is compared to a 1974 case of a Milwaukee teacher saying "stress" is to be expected in the line of duty. There is no comparison between stress and PTSD. I was told by this insurance company that if I had let this man stab me, I would have been covered. Then I would have had a physical injury that they would cover. They told me that by case law they COULDN'T cover my claim. I was then denied benefits. They told me that getting a claim of PTSD approved was almost impossible. The City of Onalaska filled out the paperwork for my DD, but it was done incorrectly. They did then write a letter in support of me receiving DD. I eventually had to have a psychiatric evaluation. This entire process took well over a year. My family was without income. I had to hire an attorney. I was approved for disability. That was the benchmark for workers comp, so that was also approved. Back payout was about \$55,000, but the attorney fee was just under \$18,000. By this time we were behind on EVERYTHING and to have to lose that money was very disheartening. The feeling I was left with was that I was merely a number. I don't like to talk about my achievements, but here I know that the need to pass this legislation is on the line. I've been called a hero, I was the first officer in the history of this country to be awarded the Congressional Badge of Bravery among many other awards, and have the diagnosis that nearly took my life and should have been more than sufficient to be given DD. The stress and anxiety that was already affecting me over this unseen disease and losing my income was compounded by the constant rejections from people that have no idea what a police officer or any emergency responder does.

Since medically retiring from the Onalaska Police Department I have used what has happened to me and speak at colleges, police academies and officer involved shooting panels. I have done a lot and don't regret it. I also don't want to waste it. Emergency responders need to know that they aren't the only ones that are struggling. Last year my wife Angela and I lobbied at the capitol for this legislation, our heroes need to be taken care of without all of the hoops to jump through and the worry that goes with the process that is in place now. I'm asking you to please pass this legislation for all of us.

Thank you for your time, and for your consideration.



February 8, 2021

To: Chairman Nass and Members of the Senate Committee on Labor and Regulatory Reform

From: Pat Mitchell, 1<sup>st</sup> Vice Chair, Wisconsin Chiefs of Police Association

Re: Support SB 11, Workers Compensation Coverage for Law Enforcement Officers with PTSD.

Thank you Chairman Nass, for your willingness to hold a hearing on this bill. We want to thank the Senate authors, Senators Andre Jacque, Van Wanggaard, and Janet Bewley for introducing this important bill. We also are grateful for our lead Assembly authors Representatives Cody Horlacher and Jodi Emerson.

We urge support of Senate Bill 11.

This legislation (as 2019 SB 511/AB 569) passed both the Senate Labor and Regulatory Reform and Assembly Criminal Justice and Public Safety Committees unanimously last session and passed the full Senate and Assembly on voice votes. Unfortunately, after minor adjustments to SB 511 were made by the Assembly at the end of session the Senate did not meet to concur on the changes.

Senate Bill 11 will provide a path for law enforcement officers, and others in public safety, who suffer from PTSD, to get insurance coverage, but more importantly, to get the help they need.

The Wisconsin Chiefs of Police Association represents more than 700 communities across this state. As Police Chiefs, we oversee the well-being of more than 15,000 men and women who wear a badge every day and take an oath to protect and serve citizens in their communities and across this state.

Today we are here to talk about the impact of post-traumatic stress disorder (PTSD). To put things into perspective, according to the Ruderman Family Foundation, 228 law enforcement took their own lives in 2019. That same year, 135 officers were killed in the line of duty according to a National Law Enforcement Officers Memorial Fund report.

It is a tragic occurrence that officers commit suicide because they cannot get the help they need.

This is why insurance coverage for PTSD for those who protect our communities is a top priority for police departments throughout the nation. The positive news is more officers who suffer from PTSD are reaching out for help. Many other states have already passed different forms of worker's compensation coverage for PTSD treatment for law enforcement officers. We hope Wisconsin will join them.

At a time when fewer people are going into law enforcement, passage of this bill will signal that yes, the citizens and lawmakers of this state do care about the men and women in uniform.

With fewer people going into law enforcement, the average cost to replace an officer with training is well over \$100,000 per officer. When we lose a good officer, because we have not adequately helped them deal with the issues they see every day, we have failed them and the communities they represent.

We urge you to support Senate Bill 11.

Thank you in advance for your consideration.



To: Members, Senate Committee on Labor and Regulatory Reform  
From: Badger State Sheriffs' Association (BSSA)  
Wisconsin Sheriffs and Deputy Sheriffs Association (WS&DSA)  
Date: February 8, 2021  
RE: **Comments in Support of Senate Bill 11**

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BSSA and WS&DSA submit these comments in support of Senate Bill 11 (SB 11). BSSA is a statewide organization representing all of Wisconsin's 72 Sheriffs. WS&DSA is a statewide organization representing over 1,000 members, including Sheriffs, Deputies, and jail officers. BSSA and WS&DSA have a joint legislative committee and work closely on public safety issues of concern to our members.

Everyday law enforcement officers across the state work to serve and protect the public's safety. As part of the job, we regularly encounter situations that can be violent, traumatic, and unimaginable. Over time, these events can cumulate, and individuals can struggle with physical and emotional conditions.

SB 11 is an important step for our state and provides reasonable and necessary worker's compensation coverage for a public safety-first responder's post-traumatic stress diagnosis (PTSD). Under the bill, the PTSD diagnosis must be made by a licensed psychiatrist or psychologist. Key to the bill is the exemption of the "greater dimensions" standard – which recognizes that a mental injury can develop not just from one traumatic event, but numerous incidents over time.

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

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

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

Thank you for your consideration.



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# MIDDLETON POLICE DEPARTMENT

7341 Donna Drive Middleton, WI 53562

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*Troy Hellenbrand - Chief of Police*

February 8, 2021

Good Afternoon and thank you for allowing me a few minutes to talk to you about my experience and my department's experience with PTSD and the importance of this legislation. My name is Troy Hellenbrand and I am currently the Chief of Police at the Middleton Police Department.

On September 19, 2018, the City of Middleton, first responders and employees at a business called Paradigm experienced an event that we all know could happen in our communities but one that we always hope never will. At 10:25am, an employee of Paradigm suddenly stood up in their cubicle and started firing randomly at their fellow co-workers – hitting and injuring several of them. Within minutes members of the Middleton Police Department arrived and entered the building in hopes of locating the shooter and ending this tragic event. I, along with two other members of my Police Department, were the first police officers to enter the building that morning. This event and what I experienced that day and the days following had a significant impact on me and will be something that I will live with for the rest of my life.

My department had been training on active shooter events since the late 1990's and on that day in 2018, all of our training played a significant role in how this event turned out. But even with all of this training and preparation what I didn't expect was how my body would react to the stress caused by an event like this. Quick to anger, frustration, many nights of restless sleep, lack of focus, wanting to isolate, and a strong desire to drink alcoholic beverages to suppress these feelings were part of my thought process and my bodies reaction to dealing with a traumatic situation that I had very little control over.

If you have known me for any length of time you would know that what I just described is not me and my normal personality; however, changes to my personality came on shortly after this incident. Luckily for me with strong family support and seeking the assistance of a professional, who reassured me everything that I was feeling was normal, helped me get back on track and back to my normal self.

I wish I could sit here and tell you that all of us that entered that building on that tragic day in 2018, and who were forced to make some challenging decisions including the decision to use deadly force, are back to our normal selves and activities like we were prior to this event; however, we are not.



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# MIDDLETON POLICE DEPARTMENT

7341 Donna Drive Middleton, WI 53562

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*Troy Hellenbrand - Chief of Police*

Today I sit in front of you, two years later, and I continue to have staff dealing with the aftermath of this incident. I have an officer struggling to get back to patrol work and being the police officer that they were prior to Paradigm. I thought I would share with you what this officer wrote regarding how this incident has impacted him –

*Every year since people started keeping track of officer deaths, more police officers have died by suicide than by criminal acts. And if we add in other first responders like EMS and Fire, the numbers double or triple. And that's only the ones that get reported. No one knows what the real numbers are because not every agency will report suicides as they are.*

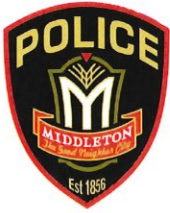
*I'm not an expert, a doctor, or a therapist. So why listen to me? Because on September 19th, 2018 I experienced something that not a lot of police officers have to experience. I was in a gunfight for my life with an active shooter. I won that gunfight but didn't come away from it unharmed. I trained very hard and prepared very well for this my entire 20-year career. I was very ready for the gun battle. But I had no idea of the mental trauma it would cause after. I experienced so many things that I never have, and never thought I would experience in my lifetime. I was very unprepared for that.*

*In the days, weeks, months, and years following this shooting, I experienced crippling anxiety, as well as terrifying, suffocating panic and paranoia. I had sleepless nights combined with terrifying nightmares. I had flashbacks that brought me back to that place more than one time. It affected my ability to be a father, a husband, a coach, and a police officer. I could no longer enjoy any of those things that I loved. The stigma of mental health therapy and medication in law enforcement was still there. I let that control my decisions to seek help. I waited far too long before I tried. I tried 7 or 8 different types of medication and went through 5 or 6 different therapists. I tried intense Eye Movement Desensitization and Reprogramming, or EMDR, which did not help me at all.*

*The therapy and medication I settled on definitely helped. But the severe anxiety, panic, paranoia, and flashbacks continued to take over my job and my life.*

*One of the most difficult decisions I ever had to make, was to admit to myself that I would no longer be able to do police work the way I loved to do for the last 22 years. I had to make that change if I ever wanted to heal from this. But that decision was not even close in comparison to the even more difficult one of making that same admission to my coworkers, friends, and bosses. It made me feel weak and like a failure.*





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# MIDDLETON POLICE DEPARTMENT

7341 Donna Drive Middleton, WI 53562

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*Troy Hellenbrand - Chief of Police*

*But as soon as I made that decision, and I was reassigned from my patrol duties, I was able to start healing and able to get my life back. When I left patrol work behind, the anxiety, panic, and paranoia all but stopped completely. The flashbacks and nightmares were gone and I was able to see the full benefit of the therapy and medication.*

*Without that change, and without the great support of my friends and coworkers, I never would have been able to heal, and could have easily become another statistic. Everyone should be so lucky as to have the support of great leadership that we have in Middleton. But now everyone needs the support of the lawmakers too.*

Now if what my officer described above was a broken leg or a gunshot wound which they suffered from this event there would be an outpouring of support from many and the proper compensation would not even be questioned. However, because it is not a visible injury that we can observe with our own two eyes there are many questions of whether PTSD is legit and whether legislation like the PTSD bill is needed. I can tell you firsthand that it is real and is desperately needed.

Lastly, there are other implications of having an officer who is struggling and unable to perform their job due to PTSD. Currently I am unable to replace their position because of budget constraints and limits on my authorized staff. This means I am constantly short one officer in my patrol unit who could be out in my community answering calls for service and performing community outreach activities.

Please support this important legislation and our first responders who give so much for our communities throughout the state. Thank you!

Chief Troy Hellenbrand  
Middleton Police Department



"Excellence in Police Service"

Chief Todd Thomas  
Appleton Police Department  
222 South Walnut Street • Appleton, WI 54911-5899  
(920) 832-5500

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February 8, 2021

To: Chairman Nass and Members of the Committee on Labor and Regulatory Reform

From: Chief Todd Thomas, City of Appleton Police Department

Thank you for the opportunity to offer my thoughts on SB11 - PTSD and workers' compensation benefits for first responders, an extremely important topic at a critical time.

**Twenty-two**; that is how many Wisconsin Police Officers we have lost to suicide in the last five years. That is almost twice as many as have been killed or died in the Line of Duty during that same period of time. Sadly, we know there were likely more than 22 officers lost because there is still a stigma around reporting suicide. I am familiar with this because I am part of the *Wisconsin Law Enforcement Death Response Team (LEDR)*, a group of 14 volunteers whose mission it is to respond and assist agencies when they lose an officer to suicide or in the line of duty.

The loss of any life is tragic, it is even more heartbreaking when the cause of many of these deaths was likely the stress and trauma these officers endured while serving our communities. We have not had the same commitment to them that they had to us, and we have not done enough to take care of them like we should.

They chose a profession where they respond to horrific crimes, death scenes, child sexual assaults, fatal car crashes, and every other evilness imaginable. They agreed to deal with these horrors, and the nightmares that come with them, so others don't have to. They also take on the cumulative stress officers are under every day, what we call the "thousand small cuts". When they have to see the un-seeable, and deal with the un-comprehensible, they are frequently told that it's just, "part of the job". They must continue to be physically and mentally stronger than the evildoers, and deal with a society that is becoming more violent and gruesome.

But most importantly, while maintaining that hardened physical and mental armor, they must always keep their soft heart. They have to stay empathetic and compassionate, and they have to be able to do it all while not letting it affect them so that they can protect their families from what they see. The expectations we have of the 21<sup>st</sup> Century Police Officer are un-human, but thankfully we still have men and women who gladly stand up and say, "Here am I, send me". But, we have not always stood up and taken care of them in the same way. SB11 addresses that and offers them the help they need to get better and return to serving and protecting us.

Core Values of the Appleton Police Department: "Compassion, Integrity, Courage"



"Excellence in Police Service"

**Chief Todd Thomas**  
**Appleton Police Department**  
222 South Walnut Street • Appleton, WI 54911-5899  
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On March 12, 2014, I lost a friend and colleague to suicide, Deputy Lance Catalano. After serving for over 20 years I think the trauma and stress of his career likely took its final and ultimate toll. His mother made me a thin blue line blanket that I keep in my departments Peer Support Room as a reminder of Lance, the importance of our officer's being mentally healthy, and the tragedy that can happen when they are not. Every time the LEDR team responds to a suicide I am frustrated because I feel there should have been ways to prevent many of these from happening.

We have been working hard to lift the shroud around first responder suicide and the stigma attached to asking for help when you are struggling. Law Enforcement has recognized the impact of PTSD in our profession, but we still have to overcome the fear and apprehension around asking for help. Officers need to know they can ask for help without having to worry about losing their job and how they will support their families.

The current law makes that nearly impossible. When seeing and dealing with the horrific is considered "normal" in our profession, and that excludes us from being eligible for workers compensation to get better, it is an injustice. We are all created equal, and putting on a badge doesn't change our DNA and give us the ability to cope with stress and trauma any better than anyone else.

SB11 is critical if we are going to make that next step and let our first responders who are struggling with PTSD know that if they need help we have a safety net for them. It is the fiscally responsible thing to do and it is the right thing to do for our communities, our first responders, and their families.

I sincerely thank you for your time and for allowing us to have a discussion on this topic.

Todd Thomas  
Chief of Police  
City of Appleton Police Department

Core Values of the Appleton Police Department: "Compassion, Integrity, Courage"



**February 8, 2021**

**TO: Members  
Senate Committee on Labor and Regulatory Reform**

**FR: Brian Dake  
Legislative Director  
Wisconsin Independent Businesses**

**RE: 2021 Senate Bill 11 relating to: various changes to the worker's compensation law.**

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Chair Nass and committee members my name is Brian Dake, Legislative Director for Wisconsin Independent Businesses. Thank you for the opportunity to testify in support of 2021 Senate Bill (SB) 11.

By way of background, Wisconsin Independent Businesses (WIB) was formed in 1977 to provide small, independent businesses with an effective voice in the legislative and regulatory activities of state government. We proudly represent thousands of small businesses throughout Wisconsin.

Most of our members (approximately 85%) own and operate businesses that fit within the legal definition of a small business – fewer than 25 employees and/or annual gross revenues of less than \$5 million. We represent a broad spectrum of manufacturers, service sector providers and retailers.

Legal compliance with government-mandated programs such as worker's compensation is challenging for small business owners. Retaining a Professional Employer Organization (PEO) to assist in these duties is a viable and cost-effective option.

Most states allow client-sponsored worker's compensation coverage within a PEO agreement. SB 11 would add the State of Wisconsin to that list.

Allowing small employers to keep their incumbent worker's compensation insurance carrier regardless of their relationship with a PEO is a meaningful and beneficial change to the Wisconsin worker's compensation law. For that reason, we respectfully request your support of 2021 Senate Bill 11.

Thank you in advance for your consideration.



To: Members, Senate Committee on Labor and Regulatory Reform  
From: Badger State Sheriffs' Association (BSSA)  
Wisconsin Sheriffs and Deputy Sheriffs Association (WS&DSA)  
Date: February 8, 2021  
RE: **Comments in Support of Senate Bill 11**

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