



THE RISE IN PSYCHOLOGICAL DISABILITY CLAIMS IN PUBLIC SAFETY PLANS

Public Safety Affinity Group -- NAPPA Conference 2015



A PANEL DISCUSSION PRESENTED AT THE
NATIONAL ASSOCIATION OF PUBLIC PENSION ATTORNEYS
ANNUAL CONFERENCE - JUNE 2015

Convener

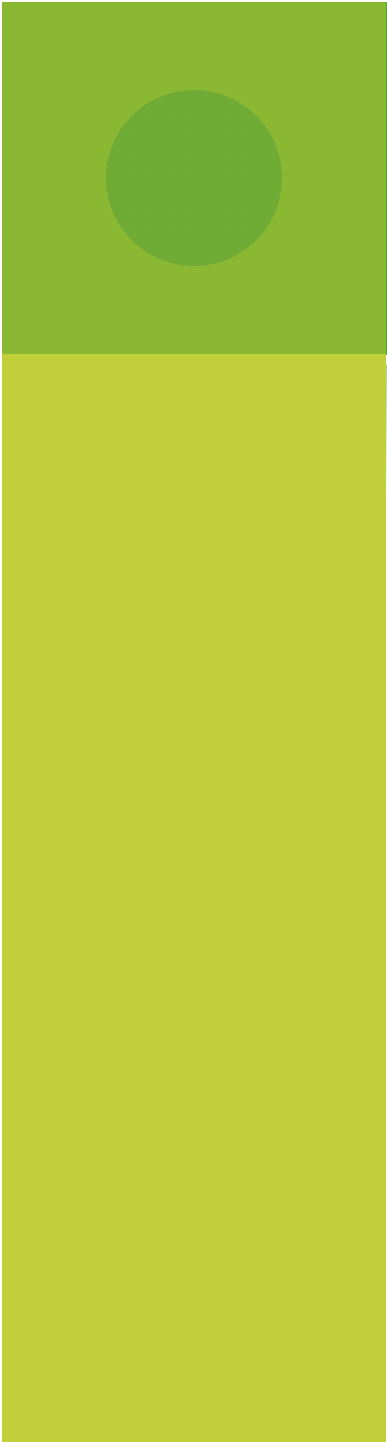
- ◎ **Mary Beth Foley**, General Counsel
Ohio Police and Fire Pension Fund (OP&F)

Featured Speaker

- ◎ **Dr. Joel S. Steinberg**, Forensic Psychiatrist
Disability and Impairment Evaluations
DEP Medical Advisor, OP&F

Panel members

- ◎ **Michael W. Sutherland**, Benefits Counsel
Fire and Police Pension Fund Association of Colorado
- ◎ **Carolyn Welch Clifford**, Partner
Ottosen Britz Kelly Cooper Gilbert & DiNolfo, Ltd.
Naperville, Illinois



THE RISE IN PSYCHOLOGICAL DISABILITY CLAIMS IN PUBLIC SAFETY PLANS: A PSYCHIATRIST'S VIEW AND SUGGESTED PROCESSES TO ENSURE LEGITIMATE AWARDS

- ◎ **PART ONE:** The Rise in Psychological Disability claims for Psychiatric Disorders -- Trends observed in Ohio, Colorado and Illinois.
- ◎ **PART TWO:** The Response of the Psychological Community to Claims of Mental Illness.
- ◎ **PART THREE:** Suggested Processes for Public Pension Funds to Ensure Legitimate Awards for Psychological Disability Claims.



THE RISE OF POST-TRAUMATIC STRESS DISORDER AND OTHER MENTAL DISABILITY CLAIMS IN PUBLIC SAFETY

PART ONE

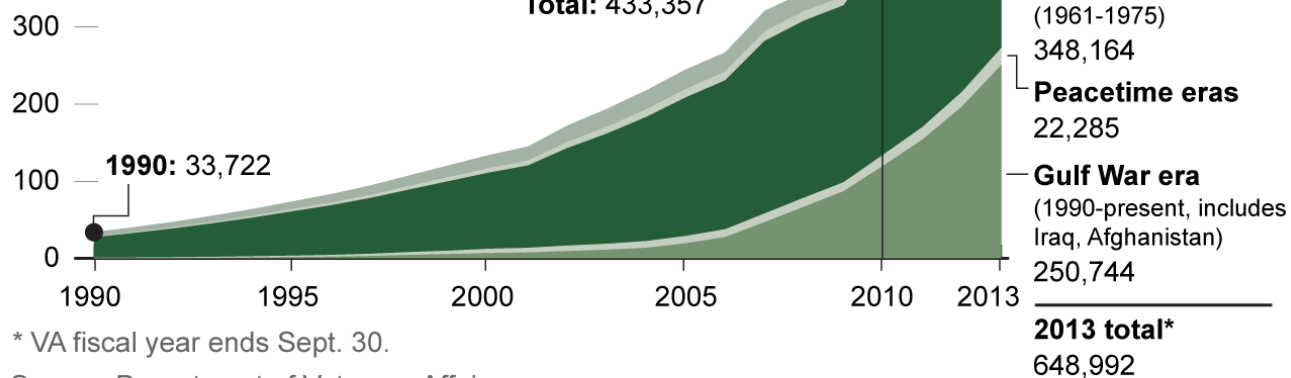
BY THE NUMBERS: THE VA

A steep rise in PTSD

The number of veterans on the disability rolls for post-traumatic stress disorder has nearly quintupled since 2000.

PTSD disability cases

(In thousands)



* VA fiscal year ends Sept. 30.

Source: Department of Veterans Affairs.

Graphics reporting by Alan Zarembo

Thomas Suh Lauder / @latimesgraphics

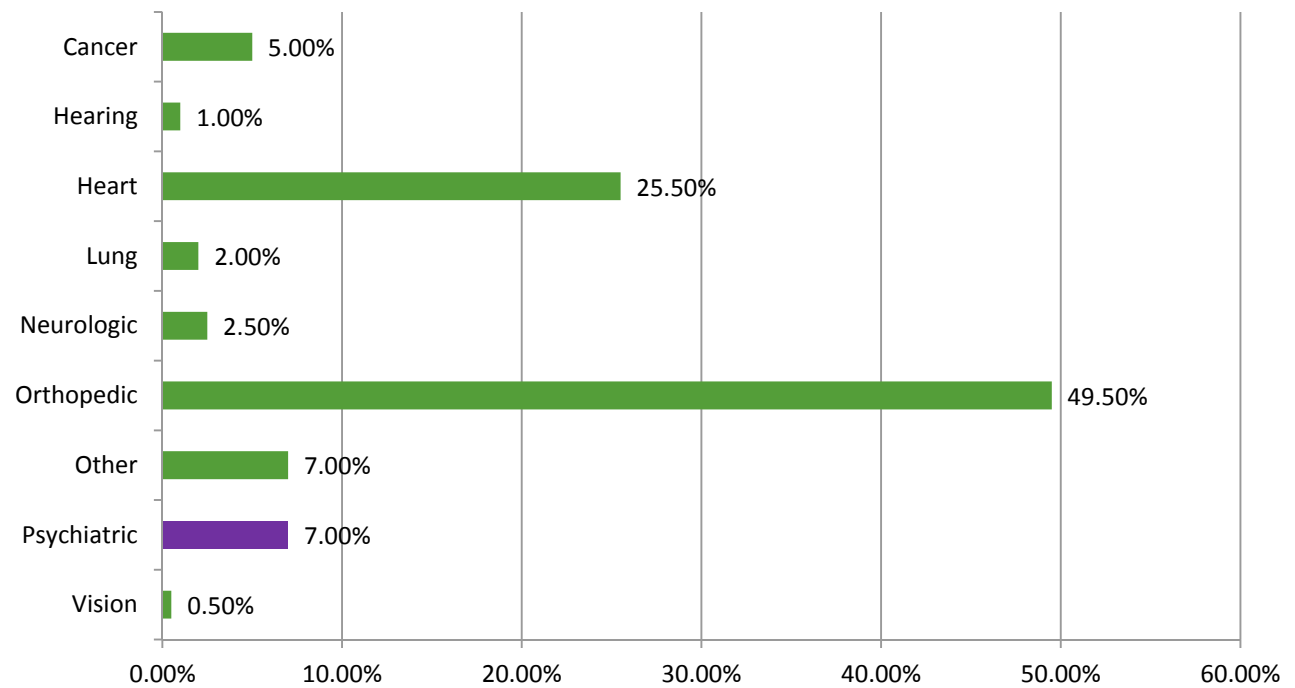


BY THE NUMBERS: TRENDS AT OP&F

- ⊙ Tracking of claims for “psychiatric conditions” begins at OP&F in 1998 -- some facts about the data.
- ⊙ Most common psychiatric conditions included in applications over this period are major and minor depressive disorders, anxiety disorders (i.e. panic attacks, etc.). “Anxiety disorders” used to include PTSD; today, PTSD is a separate diagnosis.
- ⊙ Data from the National Comorbidity Survey indicate that at least one additional psychiatric disorder is present in 88.3% of men and 79.0% of women who have a history of PTSD.
- ⊙ More than one half of men with PTSD also have a comorbid alcohol problem, and a significant portion of men and women who have PTSD have a comorbid illicit-substance use problem.
- ⊙ **59% of men and 44% of women who have PTSD meet the criteria for three or more psychiatric diagnoses.**

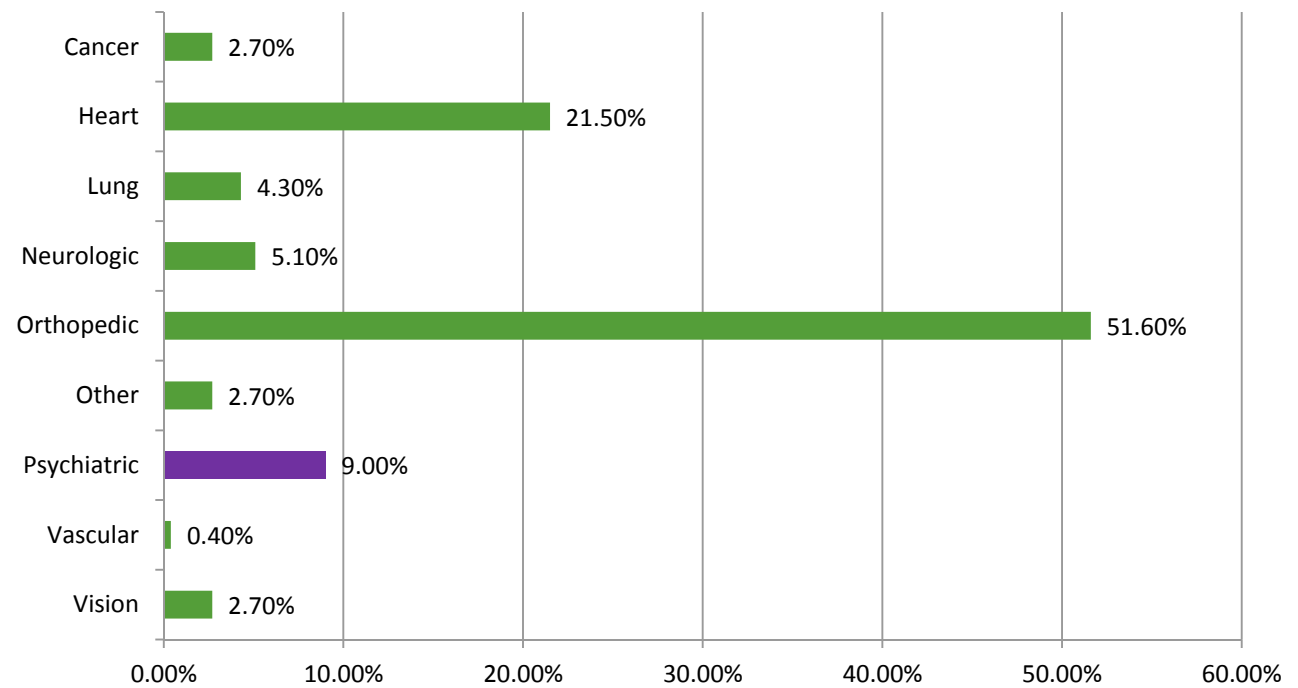
BY THE NUMBERS: TRENDS AT OP&F

1998 (200 Grants)



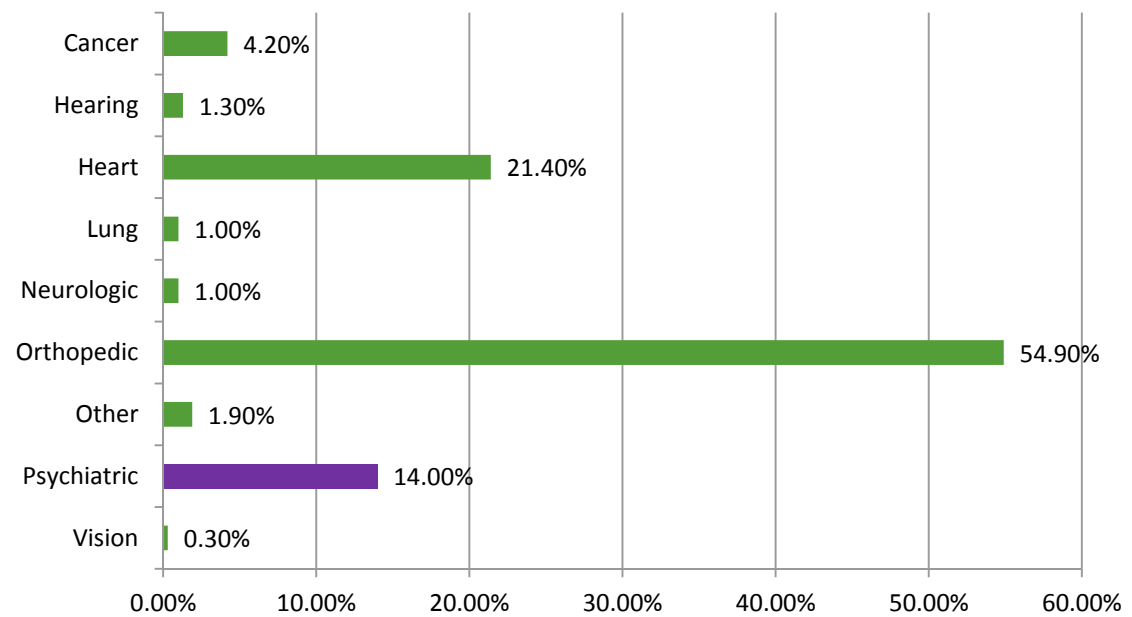
BY THE NUMBERS: TRENDS AT OP&F

1999 (256 Grants)



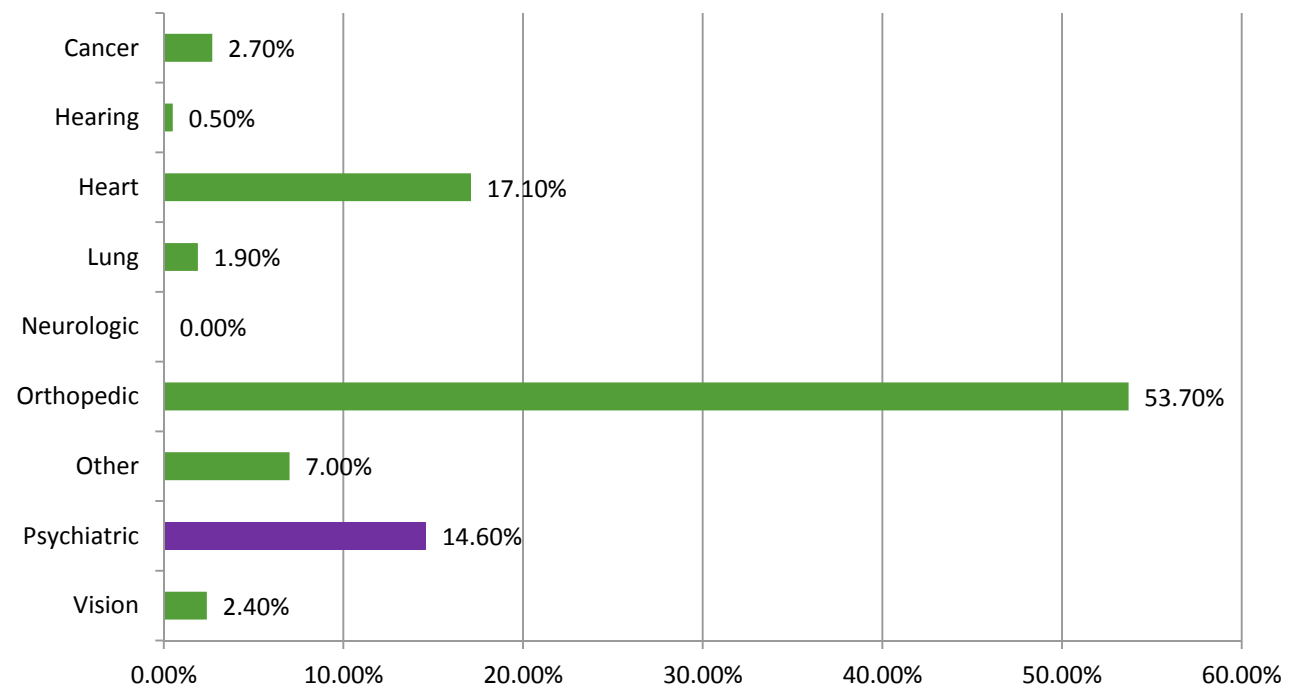
BY THE NUMBERS: TRENDS AT OP&F

2000 (308 Grants)



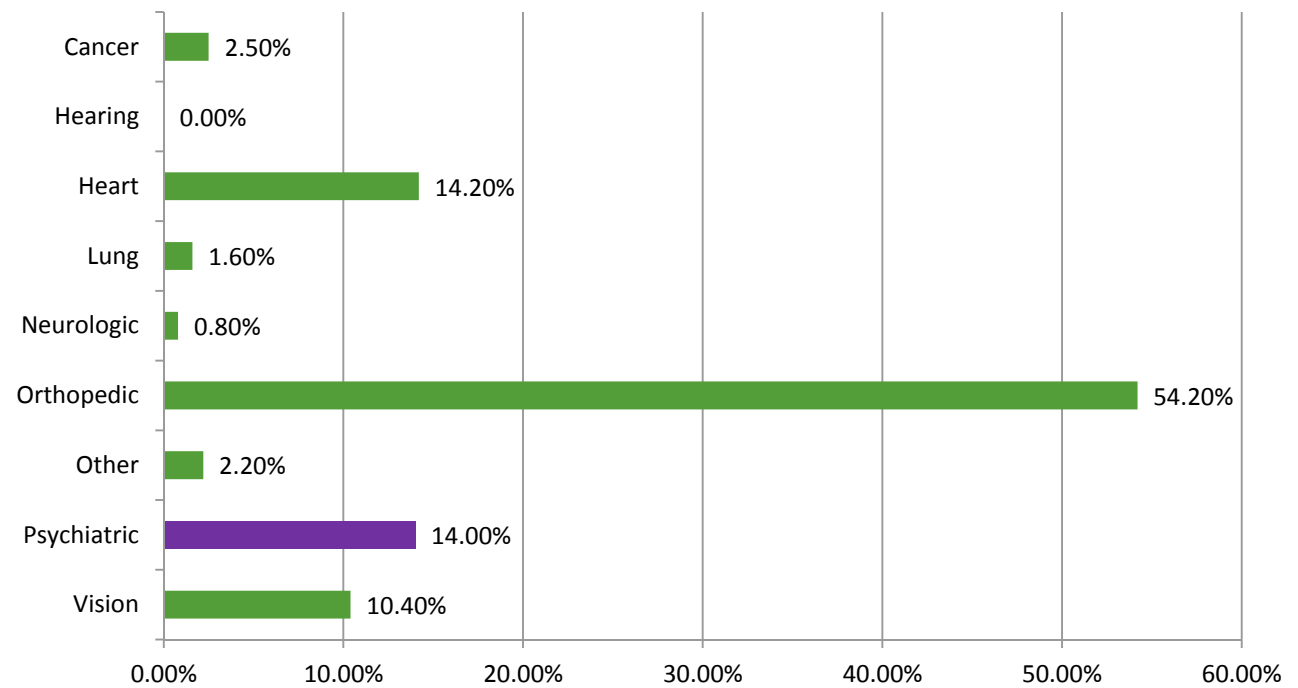
BY THE NUMBERS: TRENDS AT OP&F

2001 (365 Grants)



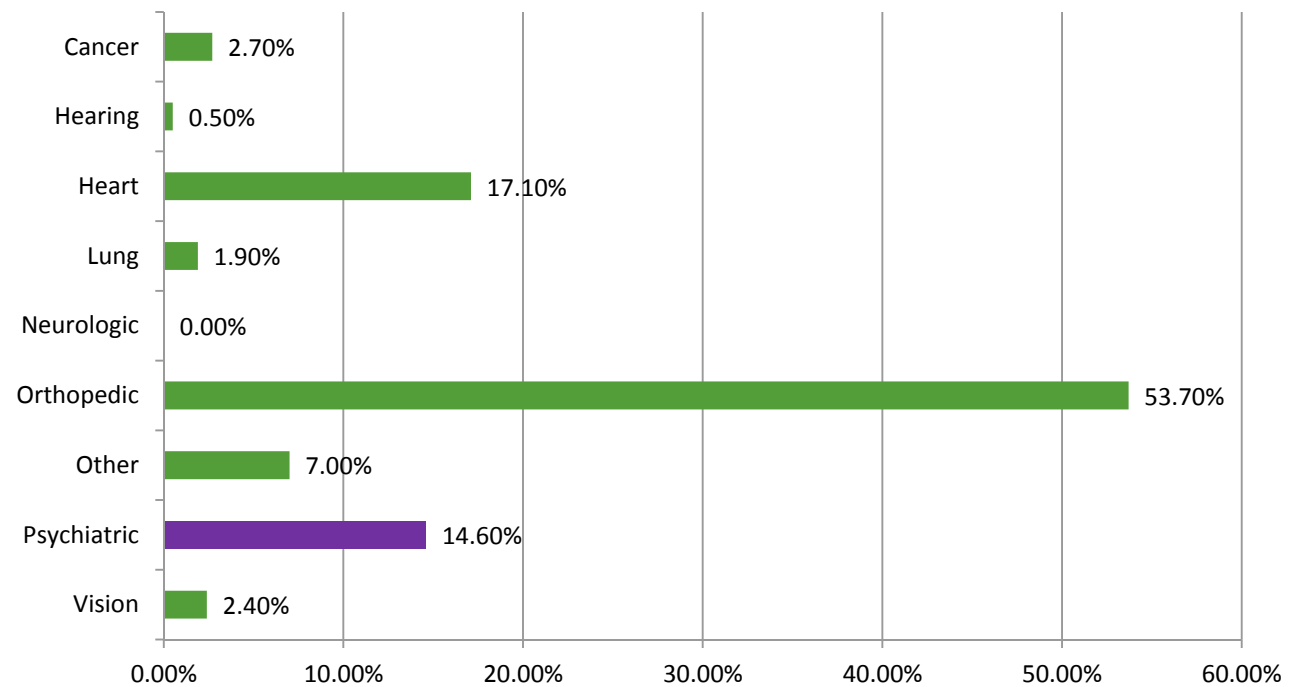
BY THE NUMBERS: TRENDS AT OP&F

2002 (365 Grants)



BY THE NUMBERS: TRENDS AT OP&F

2003 (369 Grants)



BY THE NUMBERS: TRENDS AT OP&F

We observe over twice the number of grants with psych claims as the primary medical condition listed by the member -- **from 7% in 1998 to a high of 18% in 2008:**

	Primary Medical Condition							
	lung	heart	ortho	psych	other	Neuro	cancer	vision
2004	1%	16%	61%	12%	5%	2%	3%	0%
2005	1%	14%	54%	15%	6%	6%	1%	3%
2006	1%	13%	61%	16%	3%	4%	2%	0%
2007	2%	14%	54%	18%	6%	2%	3%	1%
2008	4%	10%	54%	18%	5%	4%	5%	0%
2009	1%	10%	58%	13%	7%	4%	5%	2%

BY THE NUMBERS: TRENDS AT OP&F

The last five years saw a dramatic decrease in all grants, including psych claims:

	Primary Medical Condition								Total grants
	Lung	Heart	Ortho	Psych	Other	Neuro	Cancer	Vision	
2010	0%	9%	63%	11%	5%	7%	5%	0%	192
2011	1%	10%	62%	11%	5%	6%	4%	0%	205
2012	5%	11%	55%	7%	8%	8%	4%	2%	182
2013	5%	10%	64%	9%	1%	7%	3%	0%	147
2014	3%	18%	51%	4%	8%	7%	7%	0%	107

BY THE NUMBERS: TRENDS AT OP&F

- ◎ **Why? Several factors may contribute:**
- ◎ Over this same ten year period, the OP&F Board of Trustees, like all public funds, was dealing with financial crises in all areas of benefit funding: health care, regular pensions and disabilities.
- ◎ The Board moved on many fronts to control costs and ensure future stability: painful changes were made to the health care plan, a DROP program was added to incentivize retention of first responders, and -- with the help of our medical advisors -- changes were made to the disability program to conserve funds for present and future OP&F members.

BY THE NUMBERS: TRENDS AT OP&F

- ◎ **February 2010:** The Board adopted the *AMA Guides 6th ed.* Ch. 14 “Mental and Behavioral Disorders” and removed non-disabling conditions from consideration in the WPI.
- ◎ **May 2011:** The Board authorize the administration of the Personality Assessment Inventory (**PAI**) for all psych evaluations.
- ◎ **August 2013:** Began administering both the Medical Symptom Validity Test (**MSVT**) and Nonverbal (**NV-MSVT**) -- aka “Green’s Tests” -- for all psych evaluations.
- ◎ Dr. Steinberg will review the significance of each.



BY THE NUMBERS: COLORADO'S PTSD EXPERIENCE

- ③ Fire and Police Pension Fund Association of Colorado -- PTSD cases since 2000
- ③ PTSD cases on the rise since 2011



BY THE NUMBERS: COLORADO'S PTSD EXPERIENCE

PTSD Applications 2000 to 2005

- ◎ 2000 – 3; All police
 - ◎ 2001 – 3; 2 police, 1 fire
 - ◎ 2002 - 2; 1 police, 1 fire
 - ◎ 2003 – 3; All police
 - ◎ 2004 – 1; Police
 - ◎ 2005 - 0
- ◎ All approved on-duty
 - ◎ All approved, 2 on-duty
 - ◎ Both approved on-duty
 - ◎ All approved, 2 on-duty
 - ◎ Approved off-duty



BY THE NUMBERS: COLORADO'S PTSD EXPERIENCE

PTSD Applications 2006 to 2010

- ◎ 2006 – 1; Fire
 - ◎ 2007 – 0
 - ◎ 2008 – 0
 - ◎ 2009 – 0
 - ◎ 2010 – 1; Police
- ◎ Approved on-duty
- ◎ Approved on-duty

BY THE NUMBERS: COLORADO'S PTSD EXPERIENCE

PTSD Applications 2011 to 2015

- ◎ 2011 – 0
 - ◎ 2012 – 6; 3 Police, 3 Fire
 - ◎ 6 approved, 3 on-duty
 - ◎ 2013 – 7; 4 Police, 3 Fire
 - ◎ 7 approved, 5 on-duty*
 - ◎ 2014 – 6; All Police
 - ◎ 6 approved, 4 on-duty**
 - ◎ 2015 – 1; Police; 1 pending review.
 - ◎ 1 approved, denied on-duty pending hearing
- * 1 applicant denied on-duty
**1 granted at hearing



BY THE NUMBERS: COLORADO'S PTSD EXPERIENCE

- ③ Two Police PTSD applications withdrawn during 2014
- ③ Both requested on-duty determinations



BY THE NUMBERS: COLORADO'S PTSD EXPERIENCE

Why the spike in PTSD applications after 2011?


- ***Aurora theater shooting?*** No, only one from Aurora which was withdrawn. Too early for those applications. Standby...!
- ***Increase in Colorado wildfires?*** No, most applications are from Police by a 15 to 6 margin.
- ***Applicants unsuccessful proving and obtaining substantial PTSD workers' comp claims?*** Perhaps, because claimants limited to only 12 weeks of permanent disability for “mental – mental” claims.
- **No explanation for spike based upon current data.**

BY THE NUMBERS: ILLINOIS' PTSD EXPERIENCE

General Disability Experience amongst Illinois' Fire and Police Pension Funds

Illinois Department of Insurance does not track the number of mental disability claims made amongst the 654 fire and police funds in Illinois. However, it does track the number of members receiving disability pension benefits each year.


	<u>Duty</u>	<u>Non-Duty</u>	<u>Occupational</u>	<u>TOTALS</u>
Fire 2013 (297 funds):	1032	113	155	1300
Fire 2012 (297 funds):	994	118	172	1284
	<u>Duty</u>	<u>Non-Duty</u>	<u>Occupational</u>	<u>TOTALS</u>
Police 2013 (357 funds):	842	279	2	1123
Police 2012 (355 funds):	811	263	1	1075



BY THE NUMBERS: ILLINOIS' PTSD EXPERIENCE

**In a sample of seven (7) Illinois police pension funds
over a 15-year period (2000 to 2015)**


- **Thirteen (13) total disability applications granted.**
- **Of those 13 applications, only one (1) was for a mental disability (which included a claim of PTSD).**
- **The one mental disability applicant was granted a non-duty disability pension benefit.**



BY THE NUMBERS: ILLINOIS' PTSD EXPERIENCE

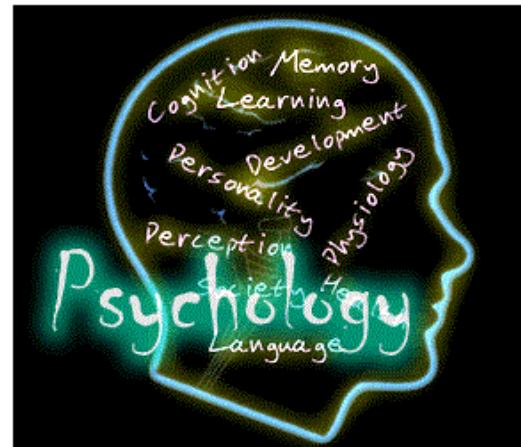
In a sample of thirty-one (31) Illinois firefighter pension funds over a 15-year period (2000 to 2015)

- Seventy-one (71) total disability applications reviewed with only two (2) of those applications denied.
- Of those 71 applications, seven (7) were for a mental disability.
- Two (2) of the seven (7) mental disability applications included a claim of PTSD.
- **One (1) of these PTSD claims was denied; the other PTSD applicant was granted non-duty disability benefits.**



BY THE NUMBERS: ILLINOIS' PTSD EXPERIENCE

- ❖ **Anecdotally, most Illinois fire and police pension fund attorneys have not noticed a rise in either mental disability or specifically PTSD claims in Illinois.**
- ❖ This may be the result of the difficulty under the Illinois Pension Code to prove a line-of-duty disability for a mental disability claim.
- ❖ However, there is generally more awareness of PTSD and general mental health issues – particularly in the Illinois fire service.



A PSYCHIATRIST'S VIEW ON CORRECTLY EVALUATING CLAIMS OF MENTAL IMPAIRMENT DR. JOEL S. STEINBERG, MD, FP

**PART
TWO**



THE EVALUATOR'S DILEMMA

“Evidence which is simply information recorded by a medical examiner, unenhanced by any additional medical comment by that examiner, does not constitute ‘competent medical evidence’ and a mere transcription of lay history is not transformed into ‘competent medical evidence’ merely because the transcriber is a medical professional.”



THE EVALUATOR'S DILEMMA

“Similarly, an opinion as to the cause of a disability, its relationship to an event or injury, or its relationship to another disability without any factual information regarding the basis of the opinion is not of sufficient probative value to establish a connection, even if the opinion is expressed by a medical doctor or someone in the medical profession.”

US Department of Veteran's Affairs, Office of Hearings and Appeals



THE EVALUATOR'S DILEMMA

- Psychiatrists and psychologists are trained to believe patients.
- Mental health professionals have been found to more susceptible to manipulation than most other professionals; **the least susceptible have been found to be attorneys.** 😊
- In this area, it easy to be deceived.
- An evaluator must remember that unlike those who simply seek treatment for mental illness, there is significant pecuniary gain at stake for disability applicants.



THE EVALUATOR'S DILEMMA

- Without laboratory tests or other means to confirm or exclude diagnostic considerations, mental health professionals are dependent on the history offered.
- Most of you are probably familiar with fibromyalgia, chronic fatigue syndrome, irritable bowel syndrome, and possibly multiple chemical sensitivities. These are examples of illness without disease or “Medically Unexplained Symptomatology” (MUS).



THE EVALUATOR'S DILEMMA

- In a way, psychiatric symptoms are quite similar to multisymptom illness. Psychiatric patients do report having many symptoms, but there are no objective tests to confirm an underlying disease in most cases.
- How many of you know about the **“SURVIVOR QUILT?”**



THE EVALUATOR'S DILEMMA

- The Disabled American Veterans published a newsletter about PTSD. They made a typographical error. They indicated that among other symptoms **SURVIVOR QUILT** was one of the characteristic symptoms that veterans with PTSD experienced.
- Would you believe that within the next several months, there were a number of Veterans who came to apply for benefits claiming, among other things, that they had **SURVIVOR QUILT**? When asked what that was, they responded with, “**I don't know, but I've got it!**”



THE EVALUATOR'S DILEMMA

Primary Care PTSD Screen

Ask the patient, "In your life have you ever had any experience that was so frightening, horrible, or upsetting that in the past month you:

1. Have had nightmares about it or thought about it when you did not want to?
2. Tried hard not to think about it or went out of your way to avoid situations that reminded you of it?
3. Were constantly on guard, watchful, or easily startled?
4. Felt numb or detached from others, activities, or your surroundings?

Three or more "yes" answers to these questions represent a positive result for PTSD. Public funds need to do more.



THE EVALUATOR'S DILEMMA

2005 NDSD* Mental Health Screening

- Nearly 300,000 screenings were completed at 8,000 sites and through SMH's**
- Year-round, online screening offered by hospitals, community groups, colleges, workplaces, and health care companies.

** National Depression Screening Day*

*** Screening for Mental Health*



THE EVALUATOR'S DILEMMA

2005 NDSD* Mental Health Screening

- ⊙ People who scored positive on the generalized anxiety disorder screening:

Scored 26% in-person and 82% online

- ⊙ People who scored positive on the PTSD screening:

17% in-person and 65% online

Due to the self-referred nature of the online screenings, historically, we tend to see a larger percentage of positive scores than for the in-person events where screenings are offered to the public at large, not just those who come out of concern for themselves.



HOW DO WE SOLVE THE DILEMMA?

- Thus, adoption of appropriate standards is essential to ensuring the most appropriate award is given to a disability applicant.
- The goal is to make sure those who are truly suffering receive appropriate benefits. And to make sure those who are not entitled do not receive them.




SUGGESTIONS FOR PUBLIC FUNDS
TO ENSURE LEGITIMATE AWARDS

**PART
THREE**

HOW DO WE SOLVE THE DILEMMA?

- Consider adopting the *AMA Guides 6th ed.*, Ch. 14 “Mental and Behavioral Disorders”
- Require Fund Evaluators to use one or all of the following tests:
 - ✓ The Personality Assessment Inventory (**PAI**)
 - ✓ The Medical Symptom Validity Test (**MSVT**) and Nonverbal Medical Symptom Validity Test (**NV-MSVT**)...aka **Green’s Tests**...

...or like tests for all psych evaluations.



HOW DO WE SOLVE THE DILEMMA? ADOPT THE 6TH EDITION TO AMA GUIDES FOR MENTAL IMPAIRMENTS

Classification of Impairments **4th Edition: Table, page 301** **[also p. 363 Guides 5]**

Class 1: No Impairment

Class 2: Mild, compatible with most ...

Class 3: Moderate, some but not all...

Class 4: Marked, significantly impede...

Class 5: Extreme, Preclude ...

USEFUL FUNCTIONING

HOW DO WE SOLVE THE DILEMMA? ADOPT THE 6TH EDITION TO AMA GUIDES FOR MENTAL IMPAIRMENTS

IMPAIRMENT: % = Second Edition
(Similar to Chapter 4, Table 3 (p. 142))

- Class 1, No/Normal 0-5%
- Class 2, Mild/Mild 10-20%
- Class 3, Mod/Mod 25-50%
- Class 4, Marked/Mod Severe 55-75%
- Class 5, Extreme/Severe >75%


Fourth Edition, % in text, not in table (p. 301)

Fifth Edition, % **not** in the chapter, **not** anywhere

HOW DO WE SOLVE THE DILEMMA? ADOPT THE 6TH EDITION TO AMA GUIDES FOR MENTAL IMPAIRMENTS

The 6th Edition is more specific and can result in a significant reduction in the impairment percentage:


GAF Value	81 – 100	71– 80; 61 - 70	51 – 60	41 – 50, 31 -40	21 – 30; 11-20; 1-10
Whole Person Impairment % Guides					
<u>Second Edition</u> [3, 4, 5, too]	0 – 5	10 – 20	25 – 50	55 – 75	> 75%
<u>Sixth Edition</u>	0	0/5	10	15/20	30/40/ 50



HOW DO WE SOLVE THE DILEMMA? ADOPT THE 6TH EDITION TO AMA GUIDES FOR MENTAL IMPAIRMENTS

The reduced percentages have born out so far for OP&F:

- ◎ We have seen a reduction in then percentage of WPI in awards for mental impairment.
- ◎ WPI was **15-20%** for psych conditions and higher under the 5th Edition.
- ◎ Under the 6th Edition WPI is now between **5-10%**.



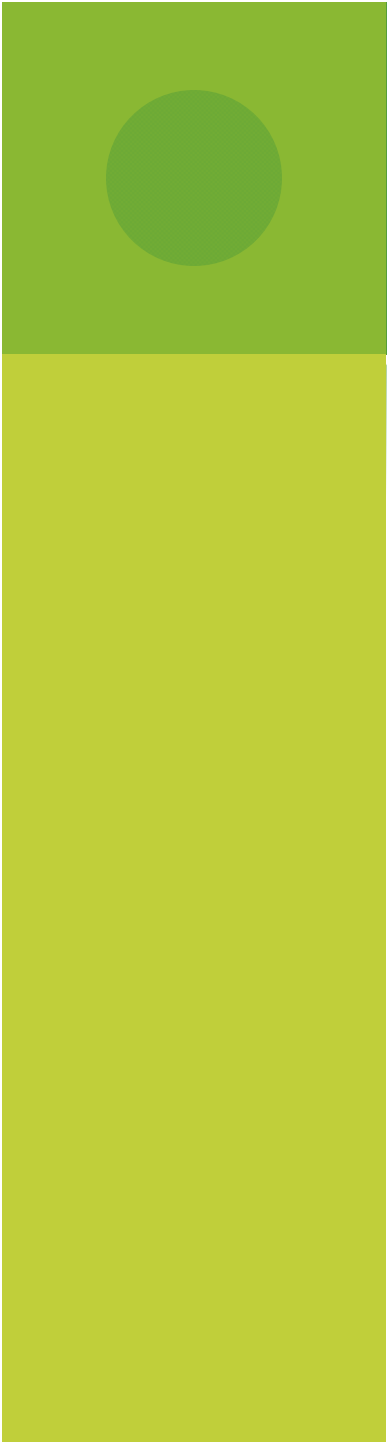
HOW DO WE SOLVE THE DILEMMA? IMPLEMENT ADDITIONAL TESTING AND MALINGERING INDICES

The Personality Assessment Inventory (PAI)

The 344 items on the PAI constitute 22 non-overlapping scales covering the constructs most relevant to a broad-based assessment of mental disorders:

- ✓ four validity scales,
- ✓ 11 clinical scales,
- ✓ five treatment scales, and
- ✓ two interpersonal scales.

To facilitate interpretation -- and to cover the full range of complex clinical constructs -- 10 scales contain conceptually derived subscales.



HOW DO WE SOLVE THE DILEMMA? IMPLEMENT ADDITIONAL TESTING AND MALINGERING INDICES

- The “**Green’s Tests**” help in discriminating between genuine cognitive impairment versus feigned impairment or results that are unreliable for some other reason (e.g. lack of engagement in testing).
- **Dr. Green’s** Word Memory Test (WMT), Medical Symptom Validity Test (MSVT) and nonverbal MSVT are computerized memory tests with multiple subtests measuring verbal and nonverbal memory. They contain hidden measures, which serve to check the validity of the patient’s test scores.



HOW DO WE SOLVE THE DILEMMA? THE REY TEST

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HOW DO WE SOLVE THE DILEMMA? IMPLEMENT ADDITIONAL TESTING AND MALINGERING INDICES

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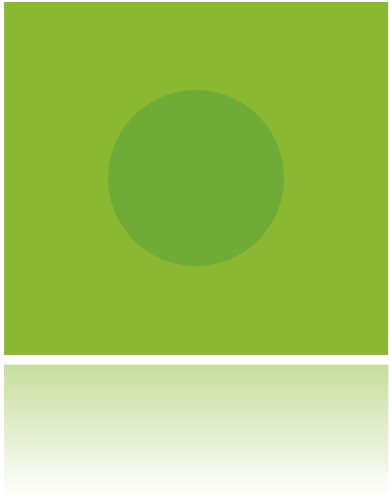
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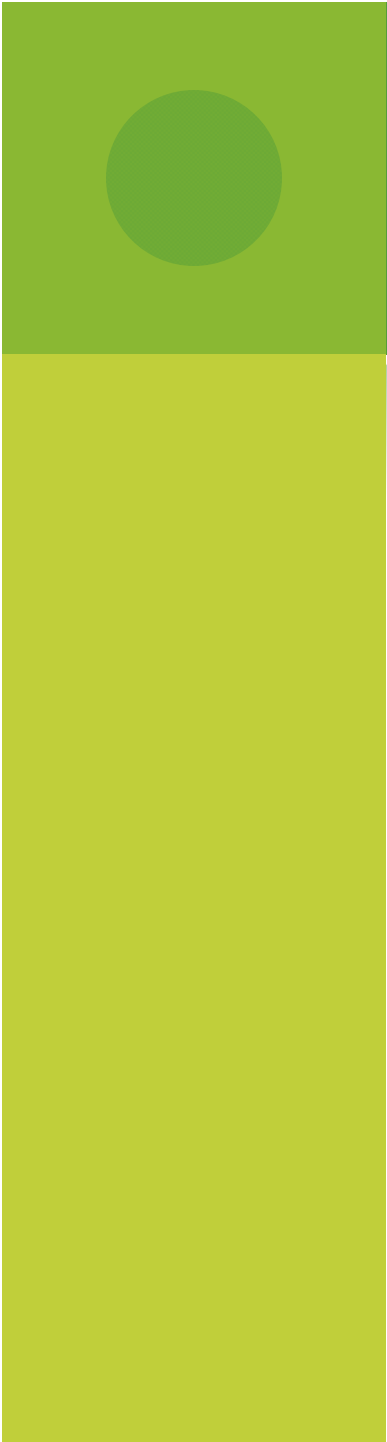
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HOW DO WE SOLVE THE DILEMMA? ENCOURAGING ENTRY-LEVEL PSYCHOLOGICAL EVALUATIONS

- ③ **Entry-level exams for fire and police candidates critical -- easiest time to address unreasonable predisposing risk factor conditions within legal limits**
- ③ **Nature of the examination**
 - ③ Essential components of the evaluation should include mental health issues
 - ③ Baseline evaluation and documentation critical for potential pension claims in the future
- ③ **Communicate to employers the importance of entry-level screening for “psychological” fit for public safety work**



HOW DO WE SOLVE THE DILEMMA? EMPLOYER SUPPORT OF PUBLIC SAFETY WORKERS' MENTAL WELL-BEING?

- ③ Two chapters in the 2013 edition of NFPA 1500 were re-titled— now “Behavioral Health and Wellness Programs” and “Occupational Exposure to Atypically Stressful Events”—to broaden the perspective of firefighter health and to allow for a more comprehensive application of behavioral health programs.
- ③ Discussions are also underway to include additional material on behavioral health for emergency responders in NFPA 1582, Comprehensive Occupational Medical Program for Fire Departments.
- ③ “Tying behavioral health into the annual fire service physical would provide another opportunity to detect these kinds of problems and to address them,” according to Ken Holland of NFPA.



HOW DO WE SOLVE THE DILEMMA? TOOLS ALL FUNDS CAN USE

- ⊙ Volume of applications and expense is a consideration for plans when deciding what tools to implement.
- ⊙ For large funds, DEP panels for evaluation of claims are a great help with processing; retain a Medical Advisor for advice on these issues.
- ⊙ Review your fund's current standards for evaluation to ensure they are up to date. Contract with examiners from many disciplines.
- ⊙ **Pay for the additional psychological testing** -- some are relatively inexpensive.



ARTICLES OF INTEREST

- ③ “As disability awards grow, so do concerns with veracity of PTSD claims,” by Robert Zaremba, *Los Angeles Times* (August 4, 2014)
- ③ “Impact on impairment ratings from switching to the American Medical Association’s Sixth Edition of the Guides to the Evaluation of Permanent Impairment,” by Robert Moss, David McFarland, C J Mohin and Ben Haynes.
- ③ “Malingering Psychological Symptoms: An Empirical Review,” by Sara Duffy, Master of Science Candidate, Department of Psychology, Illinois State University.
- ③ “Trouble in Mind,” by Janet A. Wilmoth, *NFPA Journal* (May/June 2014)



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Case Studies in claims for psychological disability

Mike Sutherland, Esq. Colorado FPPA

I.M. Pickled

In 2014, the Applicant, I. M. Pickled, applied for a disability retirement claiming work-related PTSD from his exposures to traumatic events while working as a police officer with the Mile High Police Department. Mr. Pickled claimed the onset of his PTSD was when he was the involved officer in a shooting and killing of a disabled man in 2004, and a responding officer to a sexual assault, murder and dismemberment of a 16 year- old girl in 2010. He was an investigating officer in the shooting death of a fellow officer in 2012. He also answered a mutual aid call as a responder in the 2012 Aurora theater shooting.

Mr. Pickled was diagnosed with acute pancreatitis, alcohol hepatitis, ascites and abnormal liver function tests caused by alcohol dependence when he was admitted to the hospital in November 2013. He was placed on extensive medications and referred for a psychological evaluation and alcohol dependency therapy. After a relapse to alcohol use, he entered an in-patient facility for alcohol abuse in Las Vegas, Nevada in February 2014. Mr. Pickled had a psychiatric evaluation while there, and he was diagnosed with alcohol dependence, depressive disorder NOS, and other psychosocial problems and non-specified occupational problems. He was sober for five months, and then upon a relapse was admitted to another in-patient treatment facility in October 2014. His most recent diagnoses are end-stage hepatic cirrhosis, pancreatitis, esophageal varices and duodenal ulcer.

Mr. Pickled's PTSD was first noted by a licensed professional counselor when he was admitted to the hospital for liver damage in November 2014. He claimed that due to PTSD and alcoholism, he is unable to perform his duties as a police officer. Mr. Pickled never reported PTSD to his employer as a work-related condition, but he did file a claim for workers' compensation for PTSD which was denied. The medical records he provided with his application are replete with references to his history of alcoholism.

Mr. Pickled has been married and divorced twice, and he has a 19 year-old pregnant daughter from a relationship prior to either of his marriages. His daughter lives with him. His family history is positive for alcohol, drugs and mental health issues.

During the period 2004 through 2013, he was involved in over 100 death investigations. His work product was described as exceptional by his supervisor, Sgt. Stadanko, who provided a

letter of reference as part of the disability application. His ability to manage a scene was greatly appreciated, and Mr. Pickled was considered the go-to detective on the night shift. From mid-2013, it was apparent Mr. Pickled was dealing with personal and/or health issues, and his level of productivity declined.

Mr. Pickled was granted a permanent occupational disability, but he was denied on-duty status. He has requested a hearing to appeal the denial of on-duty status.

A.G. Oraphobia

The applicant, A. G. Oraphobia, applied for a disability retirement claiming work-related PTSD in 2014. He was initially awarded a permanent occupational disability, but he was denied on-duty status. He appealed the on-duty denial through the evidentiary hearings process.

The issue for hearing was whether Mr. Oraphobia's disabling post-traumatic stress disorder (PTSD) was caused by an injury or occupational disease that he suffered as a result of performing his official duties as a police officer. He first experienced symptoms of anxiety while serving as a medic in the U.S. Army from 1992-1999. He testified that his medical history contained in Veterans Administration (VA) documents is wrong. He said he was prescribed Paxil for anxiety which was diagnosed following his father's death in 1996, and not as a result of his experiences from his deployment to Bosnia, also in 1996.

Mr. Oraphobia successfully completed psychiatric testing and drug testing, including a polygraph, as a prerequisite to his employment as a police officer, and again before obtaining security clearance for a position as a Federal Air Marshall which he held from 2002 to 2004. He returned to work as a police officer with Scenic View Police Department (SVPD) in November 2004. At that time, he completed a Statewide Standard Health History Form where he failed to provide any medication or medical history, and denied any prior treatment with psychiatrists, psychologists, or other mental health professionals. Mr. Oraphobia admitted that he provided incorrect information, but testified that he did not remember his brief periods of psychological treatment until 2013. He testified concerning numerous traumatic events, including a work-related motor vehicle accident, the arrest of an armed robbery suspect and a former TSA officer, a fatal plane crash, and the arrest of a car-jacking suspect, all from 2005 through March 2013, which he stated culminated in his diagnosis of full-blown PTSD. Mr. Oraphobia's wife and a co-worker offered corroborating testimony. Mr. Oraphobia admitted that he has been awarded disability benefits from the VA for PTSD based upon statements of another service member who related a February 1996 incident where that service member suffered massive head trauma from an explosion, which allegedly caused Mr. Oraphobia to have feelings of guilt. Two of the three FPPA evaluating psychiatrists concluded that Mr. Oraphobia's PTSD is the result of cumulative work-related traumatic incidents at SVPD from 2004 through 2013.

The hearing officer concluded that Mr. Oraphobia established by a preponderance of the evidence that his disability due to PTSD was a natural incident of and proximately caused by his employment as a police officer. She further found and concluded that Mr. Oraphobia's testimony regarding his treatment history and the onset of his PTSD was credible. The hearing officer recommended that Mr. Oraphobia be granted on-duty status. After a thorough review of the hearing record and much deliberation, the FPPA Executive Director affirmed the hearing officer's recommendation granting Mr. Oraphobia on-duty status.

Summaries of Illinois Fire and Police Pension Fund Reported Appellate Disability Cases Involving Psychological Injuries

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The Rise in Psychological Disability Claims in Public Safety Plans: A Psychiatrist's View
and Suggested Processes to Ensure Legitimate Awards

Presented at the National Association of Public Pension Attorneys
Annual Conference - Austin, Texas - June 2015

Resulting in Line-of-Duty Disability Benefits

1. *Knight v. Village of Bartlett*, 338 Ill.App.3d 892 (1st Dist. 2003)

A police officer worked in an undercover narcotics unit that often entailed physical violence. The officer began experiencing emotional problems and trouble sleeping. In particular, the officer had nightmares and dreamt about shooting people at a staff meeting. He was then removed from the police force and applied for pension benefits. Two psychologists and three psychiatrists found the applicant to be unfit for duty, yet the pension board denied the officer's application. On review, the appellate court found that the pension board was wrong: the applicant had suffered a mental disability that prohibited him from working as a police officer. Also, the applicant's disability clearly occurred in the line of duty, as it stemmed from the applicant's time in the undercover narcotics unit. Therefore, the court granted the applicant a line-of-duty pension.

2. *Village of Stickney v. Board of Trustees of the Police Pension Fund of the Village of Stickney*, 363 Ill.App.3d 58 (1st Dist. 2005)

A police officer applied for a line-of-duty disability pension because he had been suffering from panic attacks. The officer believed that these attacks stemmed from doing undercover work, having a heavy case load, and not having sufficient protection. Three examining doctors certified that he was permanently disabled because of duty-related incidents, so the pension board granted the line-of-duty pension. The Village of Stickney appealed, hoping to overturn the pension board's decision. On review, the appellate court upheld the pension board because the applicant's disability was caused by a "special risk" that only police officers would encounter.

Resulting Non-Duty Disability Benefits

3. *Hammond v. Firefighters Pension Fund of the City of Naperville*, 369 Ill.App.3d 294 (2nd Dist. 2006)

A firefighter/paramedic applied for disability benefits after several incidents raised concerns involving his fitness for duty, including losing his composure after an incident involving a fellow firefighter needing medical attention. Evidence showed he was suffering from -- among other things -- depression and anxiety. The board awarded a non-duty disability pension, instead of a line-of-duty disability pension, because it concluded that the firefighter/paramedic's "duties merely *triggered symptoms* of one or more disorders rooted in nonoccupational sources." On appeal, the court noted that there was evidence that the applicant's stress was caused by external sources wholly independent from his duties as a firefighter/paramedic. The court therefore affirmed the pension board's decision.

4. *Graves v. Pontiac Firefighters' Pension Board*, 281 Ill.App.3d 508 (4th Dist. 1996)

A firefighter filed for a line-of-duty disability pension citing anxiety caused by the fire department's increasing emphasis on cross training firefighters as EMTs. After an unsuccessful rescue attempt, the applicant stated he felt depressed, worthless, and lethargic, and was eventually admitted to a hospital psychiatric ward. Instead of the requested line-of-duty pension, the pension board awarded a non-duty disability pension because the injuries resulted from "job dissatisfaction not attributable to specific acts of service as a firefighter" The appellate court agreed with the pension board; even though the applicant was clearly psychologically disabled, "general job dissatisfaction or job stress arising from the inability to handle general duties does not give rise to a duty-related disability pension."

5. *Olson v. Wheaton Police Pension Board*, 153 Ill.App.3d 595 (2nd Dist. 1987)

A police officer suffered from intense, stress induced migraine headaches. These headaches became so bad that the officer's doctor suggested he leave the police force. The officer then sought a line-of-duty disability pension, which the pension board denied, but was awarded a non-duty disability pension. On review, the court found that the applicant was not disabled "while he was engaged in activities related to his duty as a police officer to protect and serve the public," as all employees "regularly suffer stress in their employment" Therefore, the court upheld the board's decision.

6. *Batka v. Board of Trustees of the Village of Orland Park Police Pension Fund*, 186 Ill.App.3d 715 (1st Dist. 1989)

A police officer submitted an application for line-of-duty benefits, citing work-induced stress, ulcers, headaches, fatigue, depression, sleeping disorders, and irritability. The pension board denied the officer's application for both line-of-duty and non-duty disability pensions, finding that he was not disabled. The appellate court reversed, finding that the applicant was clearly disabled and entitled to a non-duty disability pension. However, the court agreed with the pension board that the officer was not entitled to a line-of-duty pension because the officer's problems "were not unique to police officers."

7. *Coyne v. Milan Police Pension Board*, 347 Ill.App.3d 713 (3rd Dist. 2004)

A police officer requested either a line-of-duty or non-duty disability pension, claiming he had been psychologically disabled by traumatizing events at work. Outside the workplace, the officer was involved in a canoe accident that killed two people. He also experienced several suicides and witnessed a motorcycle crash. The officer was eventually diagnosed with post-traumatic stress disorder (PTSD) stemming from "a series of work-related stressors." The pension board denied the officer's application, finding that he failed to show he was incapable of performing police work or that such a disability was suffered in the line of duty. The appellate court remanded the case back to the pension board on the issue of whether the applicant was disabled and entitled to a non-duty disability pension. Yet, the court upheld the pension board's denial of a line-of-duty pension because "no specific act of his employment caused the disorder" and that the applicant "developed problems over time in response to stressful work-related situations."

8. *Iwanski v. Streamwood Police Pension Board*, 232 Ill.App.3d 180 (1st Dist. 1992)

A police officer suffered from "deep depression" that caused him to come close to attempting suicide. He also demonstrated anger and a sense that the police department was to blame for his problems. The officer then filed an application for disability benefits, which the pension board denied. The court, on review, noted that the applicant was entitled to a non-duty pension because all three independent medical examiners agreed that the applicant was disabled. However, the court agreed with the pension board that the applicant was not entitled to a line-of-duty pension because there was no evidence suggesting a link between an act of duty and the applicant's disability.

9. *Robbins v. Board of Trustees of the Carbondale Police Pension Fund*, 177 Ill.2d 533 (1997)

A police officer was assigned to patrol duty, which caused him to experience stress. This stress stemmed from criticism levied by his supervisor and anxiety that younger officers were better trained. On one occasion, the officer responded to a domestic violence call and witnessed a man commit suicide by “shooting himself in the face with a shotgun.” A few weeks later, the officer was deemed mentally unfit for duty, so he applied for pension benefits. The pension board denied a line-of-duty disability pension, but granted a non-duty pension. The appellate court reversed the pension board and granted the officer a line-of-duty pension. However, the Illinois Supreme Court reversed the appellate court, agreeing with the pension board that the officer’s stress was the result of his anxiety over his job performance and he did not suffer an injury derived from a “special risk not ordinarily assumed by a citizen in the ordinary walks of life.” The court reinstated the pension board’s award of a non-duty disability pension.

10. *Ryndak v. River Grove Police Pension Board*, 248 Ill.App.3d 486 (1st Dist. 1993)

A police officer applied for pension benefits after he was diagnosed with post-traumatic headache syndrome, stress, anxiety, and depression. These symptoms originated from two events: (1) the officer was named a defendant in a civil rights lawsuit; and (2) the officer had been beaten up so badly he required reconstructive surgery. After hearing reports by multiple psychologists and psychiatrists, the pension board denied a line-of-duty pension but granted a non-duty pension. On review, the court upheld the pension board’s decision because the applicant failed to establish a causal connection between his symptoms and an act of police service.

11. *Trettenero v. Police Pension Fund of the City of Aurora*, 268 Ill.App.3d 58 (2nd Dist. 1994)

Trettenero, a police officer, witnessed another officer beat up a prisoner being held in lockup. She did not make a written report and was disciplined for being a “passive participant.” Following the incident, both officers were sued. Trettenero started experiencing stress, depression, and anxiety, so she filed for an application for pension benefits. The pension board granted the officer a non-duty disability pension, but denied a line-of-duty pension. The appellate court upheld the pension board, as there was sufficient evidence for the board’s decision.

Not Entitled to Disability Benefits

12. *Wall v. Police Pension Board of the Village of Schaumburg*, 178 Ill.App.3d 438 (1st Dist. 1988)

A police officer applied for a line-of-duty disability pension, citing stress and emotional strain. The pension board’s examining doctors noted that the applicant’s major stress originated from a divorce he was experiencing. The pension board concluded that the officer’s stress was not caused by “the performance of an act of duty,” and subsequently denied his application. On review, the court affirmed, concluding that the officer did not have a job-related disability because these symptoms were “common to any type of employment.”

13. *Daily v. Board of Trustees of Police Pension Fund of Springfield, Illinois*, 251 Ill.App.3d 119 (4th Dist. 1993)

A police officer applied for disability pension benefits, citing stress. The pension board denied the officer’s application after finding that he did not suffer from a mental disability that would preclude him from serving as a police officer. On review, the court noted that the medical evidence only showed that the applicant suffered from a personality disorder, which did not impair the performance of his duties. Also, even if this disorder did constitute a disability, then the officer still would not be entitled to a line-of-duty pension because there was no “act of duty” that caused the disorder. Therefore, the court upheld the pension board’s denial of benefits.

14. *Jagielnik v. Board of Trustees of the Police Pension Fund of the Village of Mundelein*, 271 Ill.App.3d 869 (2nd Dist. 1995)

A police officer made repeated sexual advances to a female grocery clerk. He was eventually caught and pleaded guilty to misdemeanor battery. The officer then filed a petition for disability benefits, claiming that he was suffering from severe depression. The pension board agreed that the officer was mentally disabled and that the disability stemmed from the charges made against him. However, the pension board denied the pension on public policy grounds because his disability was caused by his own intentionally committed wrongful acts. On appeal, the court upheld the pension board's decision, as the officer "should not profit from his own wrongdoing."

15. *Kramarski v. Board of Trustees of the Village of Orland Park Police Pension Fund*, 402 Ill.App.3d 1040 (1st Dist. 2010)

A new police officer underwent police baton training, during which she was injured. As a result of the incident, the officer also claimed she experienced post-traumatic stress disorder (PTSD) and depression. The officer then applied for disability benefits. Two of three psychiatrists concluded that the applicant was not psychologically disabled. There was also medical evidence showing that the applicant was not physically disabled. The pension board denied the officer's application, and the court summarily affirmed the pension board's decision as supported by the evidence.

16. *Marconi v. Chicago Heights Police Pension Board*, 225 Ill.2d 497 (2006)

A police officer applied for disability benefits due to depression. The applicant's claim was supported by his psychiatrist, two independent psychiatrists, and a psychologist. However, another psychiatrist disagreed. The pension board denied the officer's application, relying on the report of the dissenting psychiatrist. On review by the Illinois Supreme Court, the pension board was upheld. The court noted that the record contained "sufficient evidence to support the Board's decision, and we cannot say that it is clearly evidence that the Board should have reached the opposite conclusion . . ."

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