

Shots Fired – Police Officer Psyche Injury Claims

*Presented at the Parma 2018 Conference
February 14, 2018
Monterey, CA*

Presented by:

Keith Epstein – Hanna Brophy – Workers’ Compensation Defense Law Firm

Alex Wong – Jones Clifford – Workers’ Compensation Applicant Law Firm

Frank Grgurina – Director of Public Safety (ret.), City of Sunnyvale

Elizabeth Dansie – Owner & Director, The Psychological Services Group, Concord, CA

Overview

Shots Fired - every time a gun is fired, there is an infant death, a rape case, a serious traffic accident or similar distressing incident in the life of a Police Officer, this falls into the category of a “Critical Incident”, and should be taken seriously because of both the singular and cumulative effect on the Police Officer and the Department as a whole.

Video:

https://www.youtube.com/watch?v=G9RJ-9V_7Zk

Overview

Problem – physiologically damaged employees with impacts on their personal life, lost productivity, excessive workers' compensation and litigation costs, loss of skilled personnel time. There is a shortage of skilled and experienced Police Officers, and losing officers to stress injuries is very costly to the organization in terms of training and replacement of officers. There may be a reluctance for an employer to devote more resources to prevent and treat critical incident psyche injury claims, due to a perception of abuse by Police Officers, which really may only be the 1%'ers who abuse the system.

Solution Overview

Disease Prevention Approach – Center for Disease Control (CDC) and the World Health Organization (WHO) are the foremost agencies for the control and management of the ills that plague our societies. Both these organizations put forth a disease prevention paradigm that rests on 3 key principles:

Primary Prevention – Research shows Primary Prevention is the Most Effective and Least Expensive. This is aimed at police officers who have yet to be exposed, or who have minimally been exposed to the stress of the job. This can include counseling about pressures, teach skills to cope and manage stress, teach about life balance, provide resilience strategies.

Secondary Prevention – This is the organized Critical Incident Stress Management (CISM) response which includes both individual and group crisis intervention services delivered by peers and trusted clinicians post-critical incident. It has as its express purpose the “normalization” of impacted personnel with the goal of a rapid return to duty.

Tertiary Prevention - The extension to the officer all of the resources, support and treatment after the officer is actually injured or disabled by a psyche injury.

Solution Overview

Integration Within the Organization

The integration of CISM philosophy and practice involving coordinated efforts of risk management, police department managers and employees, the workers' compensation administrator, and the attorneys involved when both civil and workers' compensation claims are filed.

The integration must also extend to the mental state clinicians, counselors, and psychologists, who are providing treatment into the support team.

Issues Pertaining to Police Officer Psyche Injury Claims

Culture of the Organization

A. How are Psyche Injuries Perceived

- 1) It's Us Against the Whole Organization
- 2) No One is Willing to talk about Stress and Psyche
- 3) Problems
 - a) Perception of weakness
 - b) Concern of lack of support by Command Staff and Risk Management

B. Psyche Injuries Are Filed by the Problem Officers

Prior Discipline – the filing of a psyche injury could signal that the Police Officer already has some disciplinary issues they want to avoid (i.e. the writing is on the wall)

C. Risk Management and Command Staff – must be fully in support of the psyche and stress injury program. In some departments, the mere mention of having “stress” can take the officer out of the job.

Disease Prevention Paradigm of the CDC and WHO Rests on Three Key Principles

Principle One: Primary Prevention

1. Aimed at officers who have yet to be exposed, or who have been minimally exposed.
2. Resides in the assumption that we can “inoculate” a susceptible population against the “toxic” or “infectious” agents to which they will likely be exposed.
3. Pre-incident stress training as part of the Police Academy can familiarize personnel with the pressures of the job, teach skills to cope with and manage stress, and provide resilience strategies.
4. Research shows that efforts made in the Primary Prevention Phase are the **least costly AND are the most effective** means of disease prevention. (i.e. No attorneys, no shrinks = low cost, palatable preventative measures.)

Disease Prevention Paradigm of the CDC and WHO Rests on Three Key Principles

Principle Two: Secondary Prevention

1. This is training during the course of the Police Officer's service to the Department, under the principles of Critical Incident Stress Management (CISM).
2. This phase continues the psycho-educational support, but also focuses on what we do during the course of the police officer's service to their communities as they encounter the chronic negativity associated with the job.
3. The standard of care is "CISM", the Critical Incident Stress Management protocol which is a comprehensive, integrative, multicomponent approach to the reduction and mitigation of harmful aspects of stress among emergency services workers following exposure to critical incidents.
4. "CISM" addresses the issues of exposure to sudden, unexpected contact with human violence, degradation and death that are too often a part of our First Responder's work.
5. This phase allows us to address the "insult" to the officer's psyche and soul before it has the chance to do damage and create lasting symptoms.

Disease Prevention Paradigm of the CDC and WHO Rests on Three Key Principles

Principle Three: Tertiary Prevention

1. This is the prevention phase that takes place once the stressful/violent incident occurs and has resulted in a stress injury claim being filed. In this phase, we are literally trying to close the barn door after the horse has escaped.
2. In this phase, tertiary prevention is aimed at addressing disease and disorder such as PTSD, anxiety disorder, depression, alcoholism, suicidality, and a host of other problems experienced by the injured officer and their department.
3. This phase is to be avoided, and why the “Primary” and “Secondary” prevention phases are so important. Research shows that in this “Tertiary” phase, **treatment is the most expensive, and is the least effective**. Operating budgets explode as we pay LC 4850 time to the injured worker, pay overtime to backfill positions once occupied by valued employees, and seek treatment for the maladies associated with the traumatic exposure of the affected officer.

Critical Incident Stress Management (CISM) Standard of Care Protocols

1. **Comprehensive** - care must be comprehensive in nature, identifying multiple tactical stress interventions, covering the functional timespan of the critical incident event to provide support for impacted employees.
2. **Peer Support Personnel** - utilizing specially selected, trained and supervised peer support personnel, to enhance credibility and consistency within the program.
3. **Pre-Incident Training & Preparation** – the research is unanimous in declaring that no reactive response to crisis can replace the value of pre-incident training and preparation.
4. **Mental Health Consultation and Supervision** – provision for mental health consultation and supervision from a culturally appropriate and trusted source
5. **Department Policy & Operational Directives** - the CISM practice needs to be integrated via departmental policy and placed into operational directives.
6. **Voluntary vs. Mandatory** - the challenges of whether the pre-exposure stress program is voluntary or mandatory must be addressed. If the program is voluntary, only the police officers who are already healthy enough are the ones who will go to stress training.

Peer Support Program

1. **Peer Support Program** - produces a culturally competent, trusted resource for paraprofessional counseling at the ground zero of stress claims.
2. **Provides An Early Warning Function** - a peer support program operating within the standard of care, serves to provide an early warning function for colleagues facing the stresses of the job that enhances the department's ability to deliver early intervention services, reducing the need for claims and injury compensation in this high risk population.
3. **CHP Example** - there was a suicide epidemic in 2003 recognized by the CHP. They instituted a program that provided specialized expertise to their established peers in the form of extensive training, and then tasked their peer support group with providing a 4-hour block of training to all 11,000 members of the CHP family. This effectively reduced their suicides to zero in the year following institution of their program.

View From The Police Commanding Officer, and Police Officer's Perspective

1. **Initial Contact** – a balance of investigation, trust and concern
2. **Department Input** - obtain input from the Police Department about the claimed injury, the individual involved, address concerns that may arise.
3. **Employer/Employee Communication** – have regular check in with the employee, including their family members. Ask about the officer's status, treatment, problems encountered with the claim, recovery and return to work. This contact must be genuine and meaningful.
4. **The Right to Treatment** – avoid the situation where the injured police officer feels they have to fight to get psyche treatment.
5. **Supportive Claims Handling** – the handling of the psyche injury claim by the claims adjuster, risk management and attorneys involved with the litigation must be supportive and not detrimental to the progress and treatment of the psyche injury.

Litigation & Outcomes

- 1) **Effective Communication** – litigants should cooperate to assure the best psyche care for treatment, recovery and return to work if possible. Cooperative litigation does not mean, “caving in”, it is okay to fight, but select the issues to contest and seek reasonable means to resolving dispute. The communication and litigation should be aimed at achieving a shared goal.
- 2) **Develop Mutual Trust & Respect In Litigation** – it should not be an “us” vs. “them” approach or attitude, parties can agree to disagree and seek a reasonable resolution to the dispute, and accept the result and move on.
- 3) **Reduction in Litigation Expense and Better Outcomes** - following the best practices for psyche treatment and recovery will more often result in the Police Officer recovery and return to work, which can mean lowered litigation costs, and lowered workers’ compensation program costs in terms of reduced medical costs, reduced LC 4850 and permanent disability awards, and a reduced impact on personnel replacement.

Shots Fired Police Officer Psyche Injury Claims

Closing Remarks

Discussion & Questions