

# Workers' Compensation Injuries

## Detection and Early Intervention in Cases of Pre-existing Complex Trauma

Hummingbird Project

CRJ 315 Introduction to Restorative Justice

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# Definitions

- Case manager: WCB employee responsible for management of the case, and the principle approver for most financial and treatment benefits
- Compensable injury: the work-related injury which is the cause of the WCB claim
- Non-compensable injury: anything which pre-existed the workplace injury and was not in any way impacted by the workplace injury
- WCB benefits: include both treatment and financial (wage replacement, compensation for loss of function, medical aid)
- Disabling injury: any injury which results in a loss of time at work
- Permanent disability: any injury which limits an ability to work permanently, meaning no hope of recovery



# Experience from the WCB Appeal Process

- I served as an Appeal Commission on the appeal tribunal for the Alberta WCB 2006-2015, sat on over 500 hearings, wrote over 350 decisions
- I am a disabled veteran who experiences chronic pain (19 years so far)
- Chronic pain cases form a large portion of complex WCB appeal cases
- Several years in to my term, a pattern started to emerge in appeals:
  - Middle-age injured workers (more women than men)
  - Relatively minor injuries (sprains, soft tissue, bruises)
  - An adversarial experience with the WCB case manager that resulted in benefits being stopped
  - Later development of a seriously disabling chronic pain condition, far out of proportion to injury
  - In many cases, the medical file would contain evidence of early-life complex trauma (abuse usually)
  - Idea 1: If there had been an early psychological intervention, it might forestall development of chronic pain
  - If there had been a healthy relationship with the WCB case manager, this may have lessened severity
  - There is very little research into this phenomena



# Experience from the WCB Appeal Process

- This suspicion is highly anecdotal, but the pattern occurred so often that I could anticipate the outcome of a particular medical history by assessing:
  - The early-life medical history (we reviewed the complete WCB medical file prior to appeal)
  - The lack of a supportive relationship with the case manager
  - The existence of an overall adversarial relationship with the WCB
  - The elimination of wage replacement benefits, and the failure to return to some form of employment (because of the presence of claimed complete disability)
- In managing the hearing process, we could often become a source of some healing which stabilized and improved the overall outcome of the case to date (but most cases the damage had already been done).
- An adversarial relationship served as a source of re-traumatization of an injured worker who had already been through at least two sets of trauma (early life; the accident at work).



# Experience from the WCB Appeal Process

- The existence of an adversarial relationship with the employer would exacerbate the re-traumatization.
- Worst cases were when an adversarial case manager and an adversarial employer appeared to work together against the worker.
- This represented a further re-injury which sometimes awakened complex, untreated, early life complex trauma.
- In general, processes intended to heal (and achieve a return to work) should not cause further injury.



# Experience from the WCB Appeal Process

- One factor which could derail this trajectory was the presence of a supportive case manager.
  - Many of those cases did not make it to appeal, as the worker was receiving benefits.
  - We did see some where it was an issue beyond the case manager's authority.
  - Even with the existence of the pre-disposing conditions, a caring case manager was often able to facilitate a return to some type of employment.
  - An adversarial relationship with the case manager became **the** defining event that moved the minor injury to serious disability.
- The benefit of a supportive relationship was often attested to in the appeal process.
  - A worker would say, "I do not want my case manager to get into trouble, as she has been doing an awesome job. But I think I am entitled to this benefit, and she told me her supervisor would not allow it to be granted."
  - The injured worker becoming an advocate for their case manager reflects an underlying significant relationship between patient and care provider.
  - In the limited sample I observed, this relationship was pivotal in determining outcome.



# Relation to Restorative Justice

- When considered with the content of this course, and particularly the article by Green, Johnstone and Lambert, it is apparent that restorative principles have a place before things fall apart in any relationship. (Green et al, 2014)
- Restorative Justice training of case managers assigned to cases screened to be 'high-risk' could serve to improve outcomes, and potentially limit or eliminate development of chronic pain conditions.
- An admittedly cursory literature review revealed very little specific research in this area. Most investigation involves the efficacy of physical intervention programs such as work hardening.
- Very few studies dealt with the detection of early-life trauma as a means of early intervention in cases which ended up with serious disabling chronic pain.
- My goal is not to prove anything, but to highlight an area worthy of focused research.



# Approach

- Restorative Justice techniques have been presented as a means of resolving damaged relationship post-incident (after crime, after conflict, after injury).
- The post-incident approaches appear to have good preventative value, and have merit if applied pre-incident.
- In this case the initiating incident is the development of an adversarial relationship with the WCB, so post-injury, pre-case management is the intervention location.
- With restorative principles governing relationship between injured worker and WCB case manager, the potential re-traumatization which awakens early-life complex trauma may be avoided.
- Restorative principles may improve the skill of the case manager to intervene constructively rather than destructively.



# Hypothesis

- Early/Earlier Complex Trauma pre-disposes injured workers to the development of chronic pain conditions
- Early screening and detection of the presence of complex trauma would permit intervention
- That intervention, if done promptly after the injury, could forestall the development of a chronic pain condition
- Restorative principles, applied to the case manager/worker ,would lessen the potential of the case manager exacerbating the development of disabling injury
- Early screening could also lead to assignment to special restorative-trained case managers who could use restorative principles



# Research into the Phenomena

- Evidence exists that early-life or earlier complex trauma can exacerbate or predispose to the development of post-traumatic stress disorder (PTSD) or Chronic pain conditions

“...somewhat higher levels of PTSD symptoms were reported by those who reported experiencing a traumatic event prior to the target stressor...” and particularly an occurrence during childhood. (Ozer et al, 2003, p. 57)

“A clear finding was that childhood physical abuse, stressful life events, and depression were generally associated with chronic pain...” (Roy, 2006, p. 56)

“[Somatization] is sometimes expressed as diffuse physical pain, sometimes as particular conditions.” (Randall et al, 2013, p. 513)

- Detecting a pre-disposition to chronic pain in the existence of early-life complex trauma can forestall development of chronic pain

“...patients at greater risk of increased pain severity and chronic pain can be detected in the acute hospital with enough accuracy to warrant their identification prior to discharge.” (Holmes et al, 2010, p. 1603)



# Research into the Phenomena

- A relationship exists between prior-life events and length of absence from work.

“A prior history of psychiatric illness or post-trauma morbidity have been shown to increase length of absence from work.” (Hensel, et al, 2011, p. 553)

“...the presence of secondary psychiatric diagnoses was significantly associated with not working.” (Hensel, et al, 2011, p. 558)

- While this study did not explicitly look at early-life complex trauma, it did establish a linkage between secondary diagnoses (i.e. those not related to the injury, and pre-existing the injury) and worse outcomes for injured workers.

- Early intervention can reduce length of disability.

“Early intervention has been associated with more rapid recovery and return to work.” (Hensel, et al, 2011, p. 553)



# Research into the Phenomena

- The entire injured worker must be considered in the treatment process, not just the compensable injury.

“So psychosocial factors must be taken into consideration in treating patients with chronic pain.” (Roy, 2006, p. 56)

- Patients who had reported early-life physical and sexual abuse were more likely to develop chronic pain syndromes.

“Abused subjects reported a higher number of areas of pain in the body, more diffuse pain; also, there were more frequent diagnoses of fibromyalgia...Clearly, abuse had far-reaching health consequences in these persons’ adulthood as compared with psychiatric patients and normal persons.” (Roy, 2006, p. 58)

- The linkage between early-life trauma and later development of chronic pain conditions was demonstrated by some studies.

“...(2) patients with chronic pain were more likely to report childhood abuse than health controls; (3) patients with chronic pain were more likely to report childhood abuse than nonabused patients with chronic pain... The conclusion was that childhood experience of abuse and neglect increased the risk of later life chronic pain as compared with individuals who were not abused.” (Roy, 2006, p. 59)



# WCB-particular situation

- An injured worker has a single point of contact with the organization, this being the case manager.
- The case manager is presented as a trusted agent who will explain, assist and provide treatment and financial support.
- Injured workers present with a wide variety of pre-existing conditions.
- When an adversarial relationship develops, the care-giver becomes an enemy.
- This can fracture trust and relationship, and converts the worker from a client to someone engaged in battle with the WCB.
- That shattered human connection will exacerbate prior trauma that involved violation of trust, so the case manager/WCB becomes a proxy for events that occurred years earlier.



# Research into the Phenomena

- Traumatic pre-events are common in the worker population

“...somewhere between fifty-five per cent and ninety per cent of people have experienced at least one traumatic event in their lifetime.” (Randall et al, 2013, p. 503)

- A ‘traumatic event’ is any which is, “subjectively experienced as a threat to the person’s survival.” (Randall et al, 2013, p. 507)
- The injured worker becomes dependent on the WCB for financial survival.
- Therefore further trauma can occur which meets Randall’s definition, as the WCB money becomes necessary for survival.
- The primary determinant is the person’s perception of the threat. (Ibid)



# Conclusions so far...

- Early-life trauma may pre-dispose injured workers to more complicated post-accident outcomes.
- Particularly in cases of childhood abuse, individuals were pre-disposed to the development of pain conditions and chronic pain.
- That those pre-disposing conditions could be detected immediately after the presenting acute injury.
- While there was some call for early screening, no study has yet assessed the effectiveness of such a program.



# What can RJ offer?

- Zehr's model of threes illustrates the applicability:
- When people and relationships are harmed, needs are created
  - The key to successful intervention is a supportive and trusting relationship between case-manager and worker. Adversarial relations by someone with the authority to provide or withhold money and care causes great harm.
- The needs created lead to obligations
  - Unfortunately, the obligation is sometimes submerged in the focus on policy and procedure before care. A case manager challenged by a distraught worker has two options: to be relational, or to protect self by using the power of policy and process to displace responsibility for doing what is right on "the system".
- A just response is to heal and put right what has been wronged
  - Following policy because a just outcome in itself, regardless of the impact of the person seeking service.

(Zehr, 2015, pp 92-3)



# What can RJ offer?

- Zehr highlights a fundamental difference between supportive and non-supportive case managers – their mission
  - Is the mission to ensure policy is satisfied, but no more?
  - Is the mission to provide as much benefit as possible without exceeding that permitted?
- Stated another way...is a case manager's primary role to say:
  - Yes? Or
  - No?
- Too often a focus on customer-service is submerged in the protection of quoting policy to explain why something is not possible.
- Is the fundamental truth the interconnectedness of individuals, or the protection of the corporation? (Zehr, 2015, p. 48)



# What can RJ offer?

- Can a process which is all about the negative (injury, loss of income, loss of identity, awakening of previous suppressed trauma) become one which is positive?
- This is foundational RJ: conflict transformation explicitly creating positives from the difficult or negative (Lederach , 2003, p. 19)
- The workplace injury could thus become an occasion of healing other traumas, not related to the work injury.
- The fracturing of a work community by injury, is replaced by a supportive recovery community which aims at a restoration of the work community.
- This transformation could ultimately reduce costs to the system.



# What can RJ offer?

- Elliott discusses post-battle rituals (cf. Grossman) as a necessary transition for soldiers returning from combat.
- This identifies a potential parallel: workers returning from the ‘battle’ of a workplace injury. (Elliott, 2011, p. 175)
- Multiple traumatic experiences have more than an additive effect, so intervention is important. (Elliott, 2011, p. 176)
- Harm caused by a person expected to be a care-giver can exacerbate a person’s experience with fractured trust from prior injury.
- But, those exposed to harm respond when “buoyed by relational support”. (Elliott, 2011, p. 187)



# What can RJ offer?

- “Dependency erodes the sense of personal power...”. Need to focus on services which lead people out of dependency and into community; contrasted with those which create dependency. (Pranis, 2001, p. 299)
- Can cause particular trauma as the injured worker becomes dependent on the WCB for sustenance and care, and then those benefits are removed suddenly without a transition from dependency.
- Injured workers are often isolated from all prior support systems, and have no place to turn after the final relationship (with the WCB) is severed.



# What can RJ offer?

- The training of service providers to screen for indicators of complex trauma before the workplace injury could allow early intervention. (Randall et al, 2013, p. 523)
- The ‘misbehaviour’ of workers previously traumatized can lead to an assumption that they are deliberately being difficult, as they are not behaving as a “real” injured worker should behave. (Ibid)
- RJ principles offer a relational response to such misbehaviour.



# What can RJ offer?

- A new concept for WCB case management is present in the concept of organizations which build “restorative capital”. (Green et al, 2014, p. 44)
- The new approach must be very self-aware to avoid re-creating symbolic violence which it seeks to displace (Ibid, p. 45)
- Rebuilding of fractured community needs to be key, to allow worker recovery and transition back into the work community. (Ibid, p. 62)



# Conclusions

- The pre-screening of injured workers for the presence of early-life complex trauma could identify cases with high potential for serious disability.
- The assignment of such cases to case managers specifically trained in restorative justice principles could provide the recovery support system.
- That would allow the development of a supportive transitional community of healing with the ultimate goal of restoration to the work community.
- This could result in healthier outcomes and lower costs to the system overall.



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