Guide for Returning to Work after a Tragic Event
This Guide was produced by the Association des familles de personnes assassinées ou disparues (AFPAD). The content solely reflects the views of the AFPAD.

AFPAD
1686, boul. des Laurentides, bur. 203
Laval (Québec) H7M 2P4
514 396-7389
1 877 484-0404
administration@afpad.ca
http://afpad.ca

This document was made possible due to the financial support from the Ministry of Justice in Quebec.

© AFPAD 2018
ACKNOWLEDGEMENTS

DESIGN, COORDINATION AND WRITING
Justine Razafindramboam, M.Sc., psychosocial counsellor

WRITING COLLABORATORS AND PARTNERS
Alain Brunet, Ph.D., clinical psychologist and full professor at the McGill University
Department of Psychiatry
Research Team of the Douglas Mental Health University Institute
Mr. Daniel Longpré, attorney
Dr. Christophe Nowakowski, psychiatrist
Nathalie Viens, M.Sc., S.W., trainer and lecturer at the Centre de formation
Monbourquette, a division of Maison Monbourquette
Fédération des travailleurs et travailleuses du Québec (FTQ)

TESTIMONIALS
We would like to thank the AFPAD family members who generously
shared their experiences.

PROJECT SUPERVISOR
Nancy Roy, AFPAD General Manager

AFPAD REVISION
Raymonde Hébert, coordinator of member services,
and Mélanie Bisson, administrative assistant

MAISON MONBOURQUETTE REVISION
Danielle Langelier, receptionist and reviser,
Sophie Chartrand, M.Sc., S.W., director of Maison Monbourquette
and the Centre de formation Monbourquette, and Sophie Latour, M. Sc., SW,
trainer and lecturer at the Centre de formation Monbourquette

CREATIVE DESIGN
Maude Côté - Graphic designer

PRINTING
L’Empreinte Print Company
# TABLE OF CONTENT

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>INTRODUCTION</strong></td>
<td>5</td>
</tr>
<tr>
<td>About this Guide</td>
<td>6</td>
</tr>
<tr>
<td>Experiencing a Tragic Event</td>
<td>7</td>
</tr>
<tr>
<td>The Limitations of a Diagnosis</td>
<td>8</td>
</tr>
<tr>
<td><strong>GRIEF</strong></td>
<td>9</td>
</tr>
<tr>
<td>Experiencing Grief</td>
<td>10</td>
</tr>
<tr>
<td>Grief in the Context of a Tragic Death</td>
<td>13</td>
</tr>
<tr>
<td><strong>POST-TRAUMATIC STRESS DISORDER</strong></td>
<td>15</td>
</tr>
<tr>
<td>Psychological Trauma</td>
<td>16</td>
</tr>
<tr>
<td>The Diagnosis of Post-Traumatic Stress Disorder</td>
<td>17</td>
</tr>
<tr>
<td>Treating Post-Traumatic Stress Disorder</td>
<td>18</td>
</tr>
<tr>
<td>The Impact of Post-Traumatic Stress Disorder on Professional Activities</td>
<td>22</td>
</tr>
<tr>
<td><strong>RETURNING TO WORK</strong></td>
<td>23</td>
</tr>
<tr>
<td>A Necessary but Insufficient Break</td>
<td>24</td>
</tr>
<tr>
<td>Insurance</td>
<td>25</td>
</tr>
<tr>
<td>The Grieving Employee</td>
<td>26</td>
</tr>
<tr>
<td>Arrangements to be Anticipated</td>
<td>28</td>
</tr>
<tr>
<td>Tip Sheet 1 - What Employers Can Do</td>
<td>29</td>
</tr>
<tr>
<td>Tip Sheet 2 - Recognizing Signs of Stress in Workers</td>
<td>32</td>
</tr>
<tr>
<td>Having Experienced a Traumatic Event</td>
<td>32</td>
</tr>
<tr>
<td>Tip Sheet 3 - What Colleagues Can Do</td>
<td>33</td>
</tr>
<tr>
<td><strong>THE LEGAL ASPECT OF RETURNING TO WORK AFTER A TRAGIC EVENT</strong></td>
<td>35</td>
</tr>
<tr>
<td>The Definition of a Victim of a Criminal Offence</td>
<td>37</td>
</tr>
<tr>
<td>New Guidelines regarding the Status of Victim</td>
<td>38</td>
</tr>
<tr>
<td>Eligibility to the Crime Victims Compensation Act</td>
<td>39</td>
</tr>
<tr>
<td>A Few Words regarding Rehabilitation Programs</td>
<td>41</td>
</tr>
<tr>
<td>Regarding the Return to Work</td>
<td>46</td>
</tr>
<tr>
<td>The Act respecting Labour Standards</td>
<td>46</td>
</tr>
<tr>
<td>Federal Income Support for Parents of Murdered or Missing Children</td>
<td>47</td>
</tr>
<tr>
<td>Social and Legal Recommendations</td>
<td>48</td>
</tr>
<tr>
<td><strong>RESOURCES AND APPENDICES</strong></td>
<td>49</td>
</tr>
<tr>
<td>For Workers who Experienced a Tragic Event</td>
<td>50</td>
</tr>
<tr>
<td>For the Victims of a Traumatic Event</td>
<td>52</td>
</tr>
<tr>
<td>For Employers and Workers</td>
<td>54</td>
</tr>
<tr>
<td>Bibliography</td>
<td>56</td>
</tr>
<tr>
<td>Appendix 1 - Leave of Absence due to the Death of a Loved One</td>
<td>57</td>
</tr>
<tr>
<td>Appendix 2 - Leaves of Absence and Special Circumstances for Victims of a</td>
<td>58</td>
</tr>
<tr>
<td>Criminal Offence and their Families</td>
<td>58</td>
</tr>
<tr>
<td>Appendix 3 - Worker’s Compensation Act (WCA)</td>
<td>59</td>
</tr>
<tr>
<td>Appendix 4 - Rehabilitation Benefits</td>
<td>60</td>
</tr>
<tr>
<td>Appendix 5 - Regulation respecting Social Stabilization and Economic</td>
<td>62</td>
</tr>
<tr>
<td>Stabilization Programs</td>
<td></td>
</tr>
</tbody>
</table>
This introduction was made possible with the collaboration of Dr. Christophe Nowakowski, psychiatrist.
The purpose of this Guide for Returning to Work after a Tragic Event is to sensitize and equip the different participants involved in a return to the workforce, such as employers, employees, unions, healthcare professionals and social workers, in order to support the workers affected by the disappearance or homicide of a friend or family member during their return to work. Indeed, the needs identified by our members have made us realize that most of these participants have little or no information about the difficulties these people encounter. This guide provides a clear understanding of the collateral damage suffered by the relatives of victims. It also outlines the professional challenges that these individuals face when they return to work. This guide will also help employers and coworkers to act more appropriately, humanely and effectively. Finally, it provides advice, as well as the legal provisions that apply to victims of criminal acts.
EXPERIENCING A TRAGIC EVENT

The disappearance of a loved one, whether it’s a child, spouse, family member or even a close friend, may have a significant psychological impact that can persist for some time. People who suffer in this manner often need help or support to resume their daily lives and social activities, just as they need help or support to return to work. Whether experiencing this situation first hand, or trying to help or support someone who is going through it, it is important to remember that no one reacts quite in the same way.

Thus, by its very nature, a tragic event may lead to different reactions. In the case of murder, we know that the loved one is dead, and despite the tragedy and pain of the situation, it is a hard truth, an undeniable fact, and we must find the psychological means to adapt to the new reality. However, in the case of a disappearance, doubt remains. Even if there is a lot of evidence to indicate that our loved one is deceased, we nevertheless have a tendency to cling to hope, however unlikely it may be, that they may be in a difficult or unknown situation, but still alive.

When a loved one is killed, we must at the very least deal with grief. When the loved one is reported missing, we are confronted with doubt. An intense and pervasive doubt, a source of anxiety. Grief takes time to resolve, but it usually ends up diminishing. Doubt caused by a disappearance is much more difficult to resolve, takes significantly longer, and often never fully vanishes.
THE LIMITATIONS OF A DIAGNOSIS

Whether the situation consists of murder or a disappearance, symptoms usually entail. Too often under such circumstances, too much emphasis is placed on the diagnosis that applies to these symptoms. People living through such events may experience normal grief, pathological grief, post-traumatic stress disorder, or an adjustment disorder. These different types of grief and complications will be presented later. However, regardless of which diagnosis is assigned, the help and support needed is much the same. People are generally under the impression that every diagnosis carries with it a specific form of treatment. This is not the case. Indeed, the mental health classification manual most frequently used, the DSM-5\(^1\), classifies psychological and psychiatric conditions, not based on the cause, but solely based on the symptoms presented. If misused, a meticulous and systematic classification system may have the negative effect of sapping all the emotion out of the tragic event, leaving instead the coldness of clinical objectivity to the point where there is no longer any room for compassion.

Prior to making any clinical diagnoses, it is important to be firmly aware that the person in front of us, the one coping with the murder or disappearance of a loved one, is going through a period of emotional distress, no matter what label is used to classify it. The diagnosis should have a secondary rather than a central role, and only in this context should it be useful to further clarify the nature of assistance or support that an individual requires.

---

1 Diagnostic and Statistical Manual of Mental Disorders, fifth edition.
Grief

The section on grief was written by Nathalie Viens, trainer and lecturer at the Centre de formation Monbourquette.
EXPERIENCING GRIEF

Grief is a natural human adjustment process that begins with the loss of an individual who is significant in one’s life. It rests on the bereaved’s attachment to the deceased. Although grief weakens the individual, it is neither a disease nor a problem to be solved. For the bereaved person, this process of adjusting to their new life without the deceased affects all areas of their life: emotionally, physically, logistically, spiritually, professionally, as well as their relationships with friends and family.

In our society where death and grief are tabooed subjects, the bereaved often carry the burden of a loved one’s death on their own. Moreover, people around the bereaved generally feel helpless, uncertain how to respond, and tend to trivialize or ignore the tragic reality of the mourning experience. This denial of death and grief is also noted in the workplace, which is not exempt from social taboos.

The Stages of Grief

Although each situation is unique, most authors agree that the phases of grieving begin with a period of shock and denial, followed by a stage of disorganization, which is usually followed by a phase of reorganization. Jean Monbourquette has divided the grieving process into eight stages that cover the entire experience of the bereaved. This process experienced in a non-linear manner consists of shock, denial, the expression of emotions, tasks related to grief, the search for meaning, the exchange of forgiveness, “letting go” and a spiritual heritage.
The Duration of Grief

Although people are not statistics, it is important to know that the grieving process spans over a long period of time. Conventional grieving lasts two years, whereas cases of violent death could extend from three to five years and homicides generally require seven years. Naturally, grief can take more or less time, depending on certain factors such as the circumstances of death, the living circumstances and personality of the bereaved, their support network, their relationship with the deceased, and so on.

According to Dr. Christophe Nowakowski, psychiatrist, it is less likely for a person to react in a normal grieving manner when a loved one disappears or is murdered, than when the person passes away from an illness, accident or natural disaster. In fact, from a psychological perspective – both for the victim as well as their friends and family, the situation is usually more acceptable if the tragic event is the result of “natural laws”, rather than the result of human malice. In the case of murder, however, human malice is indeed the contributing factor. In the case of a disappearance, speculation cannot be dismissed and persists in the form of doubt, often with multiple clues to justify this doubt. This additional complexity may lead to what is called pathological grief: a grieving response lasting beyond the expected timeframe, where symptomatic complications extend beyond the symptoms usually seen in normal period of grief (often symptoms of a depressive nature).
Symptoms of Grief

Since grieving is exhausting both physically and psychologically, the bereaved experiences different symptoms, which affect their functioning. Some people experiencing grief may present all of the symptoms listed below, while others may experience only a few. The following is a list of symptoms that usually disappear as the person progresses through the stages of grief:

**Physical symptoms:** fatigue, knots in the stomach, throat or chest constriction, hypersensitivity to noise, feelings of depersonalization (feeling unreal), difficulty breathing, muscle weakness, a lack of energy and dry mouth.

**Cognitive symptoms:** confusion, denial of reality, memory loss, difficulty concentrating, hallucinations, obsessive concerns or thoughts, feelings that the deceased is present.

**Emotional symptoms:** shock, sadness, guilt, anger, anxiety, loneliness, helplessness, relief, feelings of abandonment, numbness.

**Behavioural symptoms:** sleep disorders, changes in appetite, distraction, isolation, dreams of the deceased, avoidance or attachment to the objects of the deceased, searching for the deceased, sighs, restlessness, crying.

**Symptoms related to work:** an overall weakened psychological and physical state, or occasional hyper-performance, the loss of meaning at work, guilt caused by a decrease in productivity, difficulty recognizing the loss of productivity.
GRIEF IN THE CONTEXT OF A TRAGIC DEATH

In cases of a violent death, there are some additional, specific characteristics to consider. Here are a few:

The intensity of the shock: When a violent death occurs, there is no possible way to be prepared for it and therefore, the experience of the death is heightened by the violent circumstances surrounding it. Consequently, emotional distress can be expected to be more intense and last longer, and even for traumatic symptoms to be added to the normal grieving process.

“I was informed of the death at work, in the conference room, and since then I have not been able to set foot in there.” Darlene, stepmother of a murdered young woman.

Social stigmatization: People grieving a violent death are often stigmatized or rejected by those around them. For the latter, it is a protective mechanism that prevents them from identifying with the grieving family. Unfortunately, this attitude isolates the people who need support from their communities.

“Some people distanced themselves from me, avoiding me because they didn’t know what to say.” Marlène, mother of a murdered young girl.

“It was difficult to face my colleagues after the tragic event. I felt like a leper, everyone avoided me. I found myself alone during breaks.” Bruno, father of a murdered young girl.

Difficulty finding meaning: In general, human beings have an easier time if they can find meaning in what they experience. When the death of a loved one is caused by the hand of someone else, making sense of it becomes more difficult.

Media coverage of the event: The intimate, personal experience of grieving is exposed to the public eye, which consequently results in possible judgments on the murdered or missing person and falsehoods being spread about them. This can render the already stressful grieving process even more difficult for the families.
“With the media coverage of the tragic event, I sometimes felt that my personal life had been invaded. There was a lineup in front of my office and my colleagues sometimes asked me inappropriate questions or insisted on details about the crime that they had heard on the news. At other times, it helped me. Some people were more understanding and less judgmental because they had seen the news.” Darlene, stepmother of a murdered young girl.

**Legal proceedings:** Often long and difficult, legal proceedings delay the grieving process. It is difficult for the bereaved to remain calm when they are awaiting a verdict.

“I took a three month leave of absence for the trial. It was a difficult time, because right from the preliminary inquiry, you relive the same events. Then finally the trial did not take place, the accused pled guilty.” Bruno father of a murdered young girl.

“I took a leave of absence during the trial. I was already very stressed out in the weeks leading up to it.” Marlène, mother of a murdered girl.

**The possibility of developing a post-traumatic stress disorder:** An individual who experiences a traumatic event may in fact develop distress, which could radically affect their functioning and require a professional psychological intervention.

According to Dr. Christophe Nowakowski, psychiatrist, following the disappearance or homicide of a loved one, a person may develop an adjustment disorder or post-traumatic stress disorder. These pathologies are related to stress or psychological trauma. The difference between them is a distinction between degree and intensity. In a manner of speaking, adjustment disorder may be considered a mild form of post-traumatic stress disorder, and post-traumatic stress disorder may be considered an exacerbated form of an adjustment disorder.
Post-Traumatic Stress Disorder

The section on post-traumatic stress disorder was written by Professor Alain Brunet and his research team from the Douglas Institute.


**PSYCHOLOGICAL TRAUMA**

Imagine a parent letting their teenager go out to the park at night. One night, the teenager does not come back. After several days without any news, the child is found dead. The fateful moment when the parent realizes that their child is missing, and then the moment when they learn the circumstances of the child’s death are events that mark a life. Most individuals will eventually recover from this heavy loss and resume their day-to-day activities. Others will develop problems such as post-traumatic stress disorder (PTSD). First and foremost, this disorder may be a harsh and unexpected reaction to death, either their own or that of others. For some people, this shock may cause unapparent psychological damage, lasting months or even years.

Psychological trauma can manifest itself as one of four clusters of symptoms, classified as dissociative or depressive, but most especially anxious. Intrusive, spontaneous or triggered symptoms can also cause physical or emotional distress. This aversive, distressed response leads to behaviour of avoidance of certain activities, places, or people that can serve as triggers to their memories. Constantly on the lookout, the vigilance of traumatized individuals is marked by hyper-awareness and incapacity to lower their guard. In the end, their view of the world, of others and of themselves are negatively and definitively transformed by the traumatic event, affecting their cognitive abilities and mood on a daily basis.

The diagnosis of post-traumatic stress disorder is relatively new, going back less than 40 years. Over these past 40 years, the manner in which post-traumatic stress disorder is defined has undergone drastic change. In the beginning, it was believed that in order to suffer from post-traumatic stress disorder, one had to have experienced a tragic event personally. Therefore, individuals whose loved ones were murdered or had disappeared had not experienced the actual tragedy themselves, they merely bore witness it. Over time, it was discovered that to suffer from post-traumatic stress disorder, one did not need to have directly experienced the tragic event, but one could also develop the disorder subsequent to witnessing it. However, accepting the notion of a witness suffering from PTSD is not fully accepted, even if it has come a long way (Dr. Christophe Nowakowski, psychiatrist, 2017).
THE DIAGNOSIS OF POST-TRAUMATIC STRESS DISORDER

The diagnosis of PTSD is based primarily on a life-threatening event: exposure to death, the threat of death, serious injury or sexual assault. A person may be the direct victim of this threat, a witness to it, or learn that a loved one has been the victim. Repeated or extreme exposure to the aversive details of traumatic events in the workplace also qualifies. The diagnosis is then based on the following four categories of symptoms:

1. Intrusions
   - Spontaneous recurrences of disturbing memories, nightmares or flashbacks related to the event.
   - Cued recall\(^2\) of the traumatic event causing physical or emotional disturbances.

2. Avoidance
   - Active avoidance of disturbing memories or contextual elements (places, people, and so on) related to the traumatic event.

3. Negative Changes in Thought and Mood
   - Difficulty remembering certain aspects of the event.
   - Inappropriate blame (of self, others or the world) regarding the causes of the event or its consequences.
   - Persistent negative emotions (fear, anger, guilt, shame) or difficulty in experiencing positive emotions (joy, love, and so on).
   - Loss of interest in activities previously enjoyed.
   - Feeling alienated or isolated from others.

“I had a really hard time dealing with people. It was like having a part in a play all day long and it was exhausting and demoralizing.” Anonymous, mother of a murdered boy.

\(^2\) ‘Cued’ recall is triggered by factors that remind the victim of the trauma. They are triggered, intrusive thoughts.
4. Hyper-awareness

Irritability or excessive anger.

Reckless behaviour, risk-taking.

Hyper-vigilance, being easily startled, a lack of concentration.

Trouble sleeping.

“It was very tired. I had a lot of difficulty paying attention and concentrating on my tasks.”
Anonymous, aunt of a murdered young woman.

The impact of this disruption must last at least one month and cause distress or difficulty functioning in an important area of one’s life (family, work, and so on).

TREATING POST-TRAUMATIC STRESS DISORDER

Research indicates that during the first year, approximately 50% of traumatized people go into remission on their own. Others may require considerably more time, as well as professional assistance. Fortunately, effective treatments do exist.

Two main types of treatment have been empirically validated: psychotherapy and medication. Moreover, there are several other factors to consider when choosing a treatment: Is the victim insured? What treatment has already been attempted? Does the person suffer from a concurrent disorder? Does the person wish to confide in someone or not? What specialists are available locally? And so on.

Psychotherapy

It can be brief (10-25 sessions) or longer. It could be conducted on an individual basis or in a group setting. The clinician should belong to a professional order and have a specific expertise in psychological trauma. In Quebec, therapy may be reimbursed by the CNESST (Commission des normes, de l’équité et de la santé et sécurité au travail) if the trauma is the result of an accident in the workplace. (Victims of road accidents [see the SAAQ] and criminal acts [see IVAC] may also receive compensation). The two most validated approaches are EMDR (Eye Movement Desensitization and Reprocessing) and CBT (Cognitive-Behavioural Therapy).
EXAMPLE OF A STANDARD COURSE OF THERAPY

STEP 1: Therapeutic Alliance
The initial sessions usually involve establishing a therapeutic alliance, obtaining the person’s history, psychoeducation, and presenting the treatment plan. After listening with empathy, the therapist tactfully explains that the death of a child is traumatic grief and the person suffers from post-traumatic stress. The therapist then offers information on PTSD, and suggests weekly sessions in cognitive-behavioural therapy.

STEP 2: Managing Emotions
There are techniques to help manage short-term distress caused by the traumatic memory. The parent learns to recognize the subjects and situations that upset him. The therapist may suggest that when colleagues talk about their children, the individual tries to temporarily distance himself, and recommends some breathing exercises to calm down and return to work.

STEP 3: Cognitive Restructuring
The next important step is to start dealing with the larger problem – how the individual perceives their memories of the trauma. The parent believes that letting their child go out at night was a bad decision and that consequently, they are responsible for the child’s death. The therapist works with the individual to help ease their guilt, because it is unfair for the parent to take full responsibility for the death of their child.

STEP 4: Desensitization
Even after cognitive restructuring, the individual may still experience distress in certain situations. The therapist uses a variety of desensitization techniques to help the patient. Even if the parent no longer takes full responsibility for the death of their child, they may still experience severe distress near parks. The therapist may then begin by slowly making the individual more comfortable around parks. This can be done by simply starting to talk about parks, so as to be able to possibly lead the individual to visit a park in the future with a tolerable level of distress.

STEP 5: The End
The end of the therapeutic process is prepared in advance because it sometimes raises issues that will need to be addressed (sadness, the fear of not being able to cope, and so on). The possibility of a relapse and the need for additional sessions are discussed. The parent has more good days than bad ones, having tools to manage the bad ones. The end of therapy rekindles grief, but the patient knows that the therapist’s door remains open.
**Drugs**

Some individuals whose illness is more severe, or who are not very talkative, will opt for psychotropic drugs instead, usually a selective serotonin reuptake inhibitor (SSRI), also known as an antidepressant. Several studies indicate that SSRIs are effective in the treatment of PTSD. Drugs for insomnia, nightmares or anxiety can also be added. International recommendations suggest a drug treatment for at least one year.

Drugs require two to five weeks to take effect and have varying success rates depending on the individual.

If the initial SSRI fails, the physician may attempt more than one SSRI at a time.

The main side effects are weight gain, sexual dysfunction and nausea.

Other treatments exist, but there is less information on their effectiveness, specifically relaxation exercises, acupuncture, massage, meditation, and so on. These treatments are generally used as joint treatments, while the individual is also undergoing psychological treatment or taking medication.
## A FEW FACTS

<table>
<thead>
<tr>
<th>Most people report at least one post-traumatic symptom after experiencing a trauma.</th>
</tr>
</thead>
<tbody>
<tr>
<td>9% of Canadians report having experienced PTSD in their lifetime*.</td>
</tr>
<tr>
<td>2.4% of Canadians currently suffer from PTSD*.</td>
</tr>
<tr>
<td>Half of all cases of PTSD in Canada are related to physical assaults*.</td>
</tr>
<tr>
<td>Most cases of PTSD have a concomitant mood disorder (e.g.: depression), anxiety or substance abuse (alcohol or drug abuse).</td>
</tr>
<tr>
<td>Most people suffering from PTSD will go into remission within the year following the psychological trauma.</td>
</tr>
<tr>
<td>For individuals who suffer from PTSD for more than one year, the symptoms may persist for years.</td>
</tr>
</tbody>
</table>

* Information from the Journal of CNS Neuroscience & Therapeutics (2008)
THE IMPACT OF POST-TRAUMATIC STRESS DISORDER ON PROFESSIONAL ACTIVITIES

Absence from Work
A significant amount of official data indicates that post-traumatic stress disorders are associated with an absence from work. PTSD can result in a temporary incapacity to work that is comparable to major depression, which lasts longer than any other anxiety disorders or addictions.

Absenteeism and Presenteeism
Even after an apparently successful return to work, PTSD can increase both presenteeism and absenteeism, especially in complex and difficult working conditions.

Relationship Difficulties
Following a traumatic event, a worker may have difficulty communicating or discussing their problems with others. They may be emotional, distrustful, angry, feel rejected or become distant from those around them. Relationships within a team may become strained and collaboration may decrease.

Performance
Changes in work performance are expected and likely to cause dissatisfaction among colleagues.

Secondary Victimization
The victim of a trauma may face numerous medical, legal, or forensic procedures to defend themselves or obtain compensation. Many people find that these procedures are exhausting and can lead to anxiety. These feelings can prolong the symptoms of PTSD and undermine work performance.

Loss of Meaning
A traumatized person may develop feelings of uselessness and come to believe in the futility of making any plans for the future. These thoughts can lead to professional disengagement.

Other
Other difficulties may arise.
Returning to Work

This section was prepared in collaboration with the various contributors of the guide.
According to psychiatrist Dr. Christophe Nowakowski, returning to work is certainly not the first step for people dealing with the murder or disappearance of a loved one. He states that prior to considering a return to work, there is an entire personal journey that needs to take place, whose length of time depends on the individual. The best outcome is that once this process is completed, the individual will have regained the ability and motivation to return to work. Before then, however, a person is often unable to do so, either because of their actual symptoms, or because they lack the motivation or ability, even in the absence of any of the classic symptoms generally noted in such circumstances.

“I had difficulty getting up and finding the motivation to go to work.” Anonymous, woman whose spouse was murdered.

A NECESSARY BUT INSUFFICIENT BREAK

The Act respecting Labour Standards in Quebec[^3] provides for one day of paid leave and four days of unpaid leave for the death or funeral of a relative (spouse, child, father, mother, brother or sister). Such leaves of absence certainly do not take into account the journey that may be necessary for these individuals before they are able to return to work. Nor is any consideration given to court proceedings or a trial in the case of a homicide. Moreover, this Act does not even apply to all workers (See Appendix 1).

“I’m self-employed. At the time of my daughter’s disappearance, I stopped working for one month, but for financial reasons and to avoid going around in circles and falling into a depression, I gradually resumed work at two, then three, then four days a week. I would postpone returning calls to the following day for any emergencies, or any new information in the investigation. It has been 17 years and I’m still working like that.” Michel, father whose daughter disappeared.

Lastly, such leaves of absence fail to recognize the loss of a friend or other significant person who may represent a major loss for the employee (Bourgeois Guérin, 2014).

“It is difficult to make a list of your personal needs when you’re in shock. I was advised to take a one-month leave of absence, but in a homicide case, the legal aspects, the steps to follow-up with the insurance companies and the psychological upheaval that it entails, everything cannot be resolved in one month”. Darlene, stepmother of a murdered young girl.

For many occupations, when an individual is temporarily unable to work due to illness, they may be covered by their insurance plan. The worker may be covered by insurance from their employer and may also be eligible for public insurance, for example IVAC.

Regardless of the insurance plan, in order for the employee to be considered disabled, the insurance provider often requests a description of the symptoms, as well as a diagnosis. However, as previously mentioned, following a tragic event such as the murder or disappearance of a loved one, there may not be a clear diagnosis, nor any obvious or typical symptoms of any of the pathologies listed above. Litigation is also fairly common in various jurisdictions to determine whether or not a person is disabled, as stipulated in the insurance contract. Naturally, it is quite difficult for people dealing with such tragic events to cope with this type of contentious situation.

If there were a way to render the process a little more humane, with greater empathy and understanding, people may return to work a little less quickly, but when they do return, they would likely be in better shape and therefore able to perform better (Doctor Nowakowski, 2017).

“I was on vacation when my sister was murdered, after which my doctor put me on sick leave because I suffered from panic attacks and agoraphobia. After one month and a half, I received a letter from my employer asking me to undergo an independent assessment by a psychiatrist, who did not conclude that I suffered from pathological grief, so I had to return to work. Thanks to the support from my union, I disputed this decision because I did not feel capable of resuming my activities as a psychosocial counsellor. Unfortunately, the second psychiatrist concurred with the decision of the first. My employer then requested a reimbursement of $11,000 for the wages I had received. It’s as if, after having worked for years with people experiencing difficulties, I did not have the right to ask for help myself, to ask for the time I needed to grieve. It was as if I did not have the right to grieve the loss of my sister. Since the tragic event and the situation with my employer, I know that I will never again be able to provide the care I once did and that I will never be able to return to my former job again.” Cydji, sister of a murdered young woman.
“The insurance companies harassed us at work. They demanded proof of death, a death certificate, but the coroner’s report had not yet been issued.” Bruno, father of a murdered young woman.

“The process should be more humane. An insurer once told me abruptly: if you are unable to work, stay home.” Marlene, mother of a murdered young girl.

According to Dr. Christophe Nowakowski, psychiatrist, it is sometimes preferable for a worker to remain on a leave of absence for a longer period and return to work better able to perform, rather than return as quickly as possible, only to be able to function with poor performance.

However, once the leaves of absence provided by law have lapsed and in the absence of a diagnosis of depression, individuals dealing with the homicide or disappearance of a loved one often have no other choice but to return to work quickly, whether for financial reasons or for fear of losing their jobs.

“I went back to work because I had to support my family and was afraid of losing my job.” Anonymous, mother of a murdered young woman.

THE GRIEVING EMPLOYEE

According to Nathalie Viens from the Maison Monbourquette[^4], while still grieving, employees often have to return to work even though they are still going through a period of significant internal disorganization; employers expect them to be productive, efficient and rational, and for their levels of performance to be the same as before.

[^4]: The Centre de formation Monbourquette offers conferences and training courses. For those who would like to know more, visit https://mbourquette.myshopify.com/
In fact, the people we interviewed for this guide who had to deal with a tragic event reported that they did not perform as well upon their return to work, that they had problems with their concentration and memory, as well as difficulties managing their emotions.

“*It is difficult to meet professional expectations following such a tragedy. Three weeks after the tragic event, I was back at work. My supervisor asked me to do a presentation the following day. I was unable to say no. I wanted to avoid the world and having people look at me, but I felt obligated to do the presentation, even though I had just experienced the worst moment of my life, which had been followed by everyone in Quebec.*” Darlene, stepmother of a murdered young girl.

As Nathalie Viens from Maison Monbourquette points out, the numerous repercussions from these types of tragic events on someone’s professional life are often a major challenge for managers and union leaders, who are usually unprepared for the reality of grief in the workplace. It is important for managers and leaders to be made aware of the effects such tragic events may have on their workers, and are equipped to set up appropriate support mechanisms.

“I changed position when I returned to work. I no longer had the same abilities and I received training throughout my gradual return to work.” Marlène, mother of a murdered girl.

Not to mention that a hasty return can lead to future absences on the part of the worker, which would impact the organisation. These impacts could, nevertheless, be mitigated by the implementation of an arrangement between the workplace and the worker, which would take into account the worker’s current situation as well as their capacity to work.

“I received a good support from my employer, he was understanding and flexible when I returned.” Bruno, father of a murdered girl.
ARRANGEMENTS TO BE ANTICIPATED

Given these special situations, arrangements and agreements may be made between the employer and the worker, or with the cooperation of the union. It is important to consult with your union or any other labour rights organization that can help you develop these types of agreements. The following agreements are examples of negotiations between employers, workers and unions at a labour relations committee, if applicable:

Gradual Return

Through a written recommendation of the attending physician, the employer and the worker who has been absent for at least (...) weeks may agree on a gradual return to work. On the following conditions:

- The three parties define the length of a gradual return without exceeding (...) weeks and determine the number of hours worked;
- At the end of the period initially set for the gradual return, if the worker is unable to return to work on a full-time basis, the employer and the worker may agree to change the gradual return period.

Temporary Assignment

In order to facilitate a reintegration into the workplace, on the recommendation of the attending physician, the employer and the worker can agree on an assignment with duties that are consistent with the worker’s qualifications and experience.

The duties that the employer assigns to the worker as per the preceding paragraph are tasks that are generally required in the worker’s regular position.

Consult your union representative or other labour rights organization when your attending physician prescribes a gradual return to work or temporary assignment.
As soon as the death is announced

Show up, offer condolences and respect the confidentiality surrounding the circumstances of death, if applicable.

Acknowledge the tragic event experienced by the employee, be kind and genuine.

If the employee remains at work

Discuss any temporary adjustments that may be necessary with the employee: anticipate changes to the schedule, their duties, or locations (e.g., offer a quieter workspace), more frequent breaks, review effectiveness criteria to account for the employee’s grief and be flexible if a performance evaluation is planned.

If there is a leave of absence from work

Stay in touch with the grieving employee throughout their leave of absence, let them know that they are important to you; come to an agreement on the means and frequency of your communications (e.g. e-mail or telephone, once a month, by season, and so on).

Prior to Returning to Work

Contact the employee before their return to work. An employer may avoid contacting a worker who has experienced a traumatic event, believing that it is more respectful to stay out of their private life. These assumptions are often inaccurate. Prolonged silence can lead workers to believe that their colleagues are indifferent to their situation. In order to avoid this misunderstanding, the employer should ask the employee if they agree to be contacted periodically in order to find out how they are doing and offer support. This support is, of course, at the discretion of the employer.

Confirm the employee’s preferred means of return, prepare staff members for the return of their co-worker, ensure that the employee is capable of performing their duties safely and that they meet the requirements of the position; if necessary, consider a reassignment or modification of their tasks after coming to an agreement with the employee.

Meet with the team and cooperate with the union (if applicable) to prepare the staff for the employee’s return. If necessary, this meeting can be facilitated by a psychologist.
Upon Returning to Work

Meet with the employee on their first day back at work. This meeting should be private and confidential. It is important not to avoid the employee, nor act as though the traumatic event never took place, and not to offer any ‘negative support’, i.e. act as if everything has returned to normal, or tell them to ‘move on’. While it is appropriate to avoid asking for specific details about the traumatic event, the employer may ask the employee open-ended questions, letting them decide how much they want to share. During this meeting, it is important to show warmth, moderate optimism and active listening.

Be attentive to the employee’s fears, while at the same time being straightforward. Experiencing a traumatic event undermines an individual’s sense of competence and security. These fears may include the fear of losing a job, being less effective than before, not being able to meet deadlines, being distracted, losing control of emotions during working hours, or being replaced within the organization. The employee may also fear judgment from coworkers regarding their absence from work and worry that they may ask indiscreet questions about the traumatic event. The best remedy is to be reassuring, but it is important to be genuine.

Inform the employee of any available resources. The employee may be unaware of all the services (free or paid) available to them: CNESST, IVAC, EAP (Employee Assistance Program), insurance coverage, or union. The employer may advise that, naturally, following a traumatic event, special assistance may be obtained, and it can be done in total confidentially.

Have a reintegration plan and establish a realistic plan with the employee regarding the tasks to be performed. Determine with the employee what tasks they believe can be performed in the days or weeks following their return to work. Work together to develop a gradual and flexible plan for returning to work, which can be revised as needed. Ask the individual about the type of assistance they require (workplace updates, psychological support, support from the union mutual-assistance network, and so on), schedule follow-up meetings and make any necessary adjustments.

Due to their symptoms, the employee may no longer be able to perform their duties. This very complex and sometimes tragic situation must be resolved on a case-by-case basis with all the individuals involved (employee, employer and union representative).
Beyond all recommendations and support mechanisms that may be established in the workplace, it is the attitude and kindness of the people in the workplace that matters most. Despite the difficulty, discomfort or fear that may manifest, it is important to remember that the employee is a normal person who has experienced a tragic event and is going through an exceptionally stressful time. They require respect, empathy and support from colleagues and union representatives, as well as their managers.
There are signs to indicate whether the employee is failing in their efforts to adjust to the workplace:

- Isolation.
- Comments suggesting the presence of suicidal ideation.
- Substance use (alcohol, drugs).
- An exaggerated expression of shame or guilt.
- Persistent lack of trust.
- Hypersensitivity to criticism.
- Irritability or anger: verbalized or expressed through gestures.
- Difficulty establishing boundaries with others.
- A tendency towards victimization.
- Absenteeism or presenteeism.
- Somatization: nausea, insomnia, headaches, loss of appetite or fatigue.
- A decrease in performance at work.

When these signs persist for several days, the employer may discuss their observations with the employee in private and check whether or not they are receiving adequate professional support.

While it is important for the employer to provide support and a safe working environment, they should be cautious to not act as a psychotherapist for the worker.

It is important for the employee to get help from a healthcare professional, if they haven’t done so already. The employer should encourage the employee to continue the recommended treatment until the end.
- T I P S H E E T 3 -
WHAT COLLEAGUES CAN DO

Work colleagues may have a significant impact on the return to work of someone who has experienced a traumatic event. They may not always be sure about how to behave when an employee who has experienced a tragedy returns to work.

“My colleagues were notified by my supervisor and were very welcoming when I returned. Then, they were very encouraging.” Marlene, mother of a murdered young woman.

“I would have liked for my colleagues to have been more patient, to understand that my capacities were not at 100%. Some of them, even now, don’t understand that I still work part-time.” Bruno, father of a murdered young woman.

Offer condolences.

Listen, avoid being judgmental or giving advice.

This does not mean that you must never give advice. However, the following three rules should be respected. Firstly, you must be clear about your motivation when giving advice. Is it to relieve the other person’s suffering, or is it to reduce your own discomfort in the face of the other’s person’s distress? On the other hand, it also is important to make sure that the person wants the advice. Sometimes the person in distress will explicitly ask for it, then the situation is clear. In other cases, you must first make sure, for example by asking a question such as: “I have some advice that might help you. Would you like to hear it?”. Finally, you must make sure that the advice you give is aimed at helping the other person cope with their emotions and not simply to avoid them.

Avoid the tendency to feel compelled to do something. Often, people experiencing such a hardship need someone to be with them, more than they need someone who can do something for them. In these situations, people usually want to be heard and understood.

It is also important to recognize your limitations and not be afraid to voice them. Sometimes, it may be helpful to suggest to the person who has experienced the traumatic event to also seek help or support from other people, such as family members or professionals, in addition to any help you may be able to provide.
When you are unsure about what to say, you may always ask questions, provided this is done with empathy. You may ask a question such as: “I see that it is very difficult for you. Do you have any idea what you might need right now?” At such times, questions are often much more useful than statements.

Avoid thinking that the employee is doing well because they’ve returned to work. Even if your colleague looks normal, this does not mean that they are no longer suffering. Some employees will be able to maintain a facade when interacting with their colleagues.

Socialize: when a person returns to work, do not be afraid to ask how they are doing.

Do not invalidate their emotions or perceptions by telling them to “take control”, “think positively”, or “get a grip”.

Do not minimize the importance of the trauma by mentioning other traumatic stories that they or others may have experienced.

Avoid saying that they were “lucky in their misfortune”.

Try not to impose your opinion regarding why they lived through the traumatic event. Instead, share your feelings about how their story has affected you.

When the employee expresses anger, becomes extremely emotional, or distant, do not take it personally.

Reassure the employee that you care and value them.

Be aware that recovery can take a long time. Although most people are sympathetic toward an employee in the weeks or months following the traumatic event, they often do not understand why they may continue to show signs of distress over a longer period of time.

Re-establish a connection with the employee to strengthen social support. For example:

- Invite them to dinner or for a coffee during a break;
- Invite them to participate in projects or committees, if appropriate;
- Make time to see them after working hours;
- Take time to discuss casual topics during breaks;
- Encourage the employee to consult a professional from the company’s EAP (if applicable), or consult an independent professional.

Encourage the employee to contact the union mutual assistance network (if applicable).
The Legal Aspect of Returning to Work after a Tragic Event

This section was prepared by Daniel Longpré, attorney, and only deals with situations covered by the Crime Victims Compensation Act.
For people dealing with a tragic event, the process is often long and difficult and requires rehabilitation and therapeutic measures from legislators that are personally adapted for each of them, to enable them to return to a normal and professional life. This section is intended to provide information and to reflect on the scope of the Crime Victims Compensation Act as part of a policy to promote greater integration when returning to work following the loss of a child.

In Quebec, the Crime Victims Compensation Act[^5] is a piece of legislation that applies to victims of a criminal offence. It is not perfect and should be updated to reflect today’s realities. Its application is subject to a lot of criticism from victims and various professionals in the field. It was also the subject of an excellent investigative report by the Quebec Ombudsman[^6], which exposed the administrative gaps on the part of the Compensation for Victims of Crimes (IVAC) with regard to the application of the Act.

As a first step, we will examine the key medical assistance and rehabilitation services, as well as any associated programmes. We believe this approach to be necessary and essential. In fact, a successful return to work, either to the former workplace or at another occupation, can only be achieved through the appropriate and optimal use of medical and rehabilitation services, with respect for the victim and at their own pace. Prior to any further analysis of the therapeutic measures and related rehabilitation programs, it may be useful to consider the definition of victim as provided for in the Act.


THE DEFINITION OF A VICTIM OF A CRIMINAL OFFENCE

Any person who suffered an injury as the result of a criminal offence committed in Quebec and listed in the schedule to the Act may receive compensation and services provided for under the Crime Victims Compensation Act[7].

In the event of the death of the victim, compensation may be paid to their dependants or parents, in the case of a minor or dependent child. Close relation[8] may benefit from psychotherapeutic rehabilitation services.

The Act is administered by the Commission des normes, de l’équité, de la santé et de la sécurité du travail (CNESST)[9]. The IVAC oversees eligibility and is responsible for processing benefit claims. Eligibility to the plan must meet certain criteria.

Since the enactment of the Act, the IVAC has always interpreted this provision in a restrictive manner, requiring the victim to have had a direct link to the criminal offence.

Section 3[10]:

A crime victim, for the purposes of this Act, is any person killed or injured in Québec:

a) by reason of the act or omission of any other person occurring in or resulting directly from the commission of an offence the description of which corresponds to the criminal offences mentioned in the schedule to this Act.

In fact, requests from parents of murdered children were systematically refused by the IVAC on the grounds that the parents were not considered as being the direct victims of the offence. This interpretation of the IVAC was maintained by the former Committee on Social Affairs and by the Tribunal administratif du Québec until recently.

7 What constitutes a victim? http://www.ivac.qc.ca/victimes/Pages/quest-ce-que-une-victime.aspx
9 Commission des normes, de l’équité, de la santé et de la sécurité du travail http://www.cnesst.gouv.qc.ca
NEW GUIDELINES REGARDING THE STATUS OF VICTIM

In N.B. v. Tribunal administratif du Québec, 2016 QCCS 4468 (CanLII)[11], the Honourable François Huot of the Superior Court was called upon to intervene in an action for judicial review of a decision by the Tribunal administratif du Québec (TAQ) dismissing N.B.'s appeal on the grounds that indirect or ricochet victims could not be compensated.

After an analysis of the facts and the law, the Honourable Huot held that the facts demonstrated a sufficiently strong connection to conclude that N. B. was a victim within the meaning of the Act.

[38] A broad and liberal interpretation of the text in section 3 in no way allows for a distinction to be drawn, for the purposes of qualifying a “victim”, between a person who was present at the scene of a crime and a person who, on the contrary, had not been present.

Following the judgment of the Honourable Huot of the Superior Court and in response to pressure from the media and professionals of the sector, the Department of Justice and Attorney General of Quebec issued a guideline:

to amend the policy dealing with the definition of a victim in order to recognize all parents of children murdered by their ex-spouse as a victim within the meaning of the law. The main criterion to be taken into account is that the former spouse’s action was directed at the surviving parent.

Any application relating to the murder of a child by a former spouse submitted after the deadline may be accepted.

However, we believe that this definition of a victim is still too restrictive in the context of a Social Act. In fact, it would be appropriate to recognize that the loss of a child as a result of a criminal offence necessarily carries with it significant financial and psychological implications for close relation. The question of determining whether or not there is a direct or indirect link so as to compensate the victim should not apply to situations involving the murder of a child.

11 Free translation of N.B. v. Tribunal administratif du Québec, 2016 QCCS 4468 (CanLII) http://canlii.ca/t/gtqvc
Indeed, the relatives of the victim (father, mother, or other parental authority...) should benefit from all the advantages recognized by the Crime Victims Compensation Act. The psychological, social and financial suffering of the victim’s loved ones is exactly the same, regardless of the facts surrounding the crime. Why is an individual who suffers from post-traumatic stress disorder following the death of their child and who is prescribed a leave of absence from work in relation to this crime excluded from the benefits of the Act because they do not meet the minimalist definition of section 3 of the Act, which imposes a causal condition between the crime and the physical person? Acknowledging this reality would not lead to a significant budget increase for the government, since it would only apply to very few cases each year.

**ELIGIBILITY TO THE CRIME VICTIMS COMPENSATION ACT**

The Crime Victims Compensation Act provides a comprehensive process for the victims and their families, including compensation for loss of income (Temporary Total Disability), for sequelae (Permanent Disability), as well as medical assistance and rehabilitation service fees.

For the purposes of this Guide, we will focus on the treatment and rehabilitation aspect. Actually, regardless of the measures taken after returning to work with a future employer, success will necessarily depend on the strict application of the treatment and rehabilitation measures provided for in the Act.

**In Terms of Medical Aid**

The victim is entitled to medical assistance under section 53\(^{12}\) of the Worker’s Compensation Act (WCA). This medical aid includes, but is not limited to: hospitalization costs, medical care, surgical and patient care, drugs and other pharmaceutical products, the supply of prosthetic and orthopedic appliances, dental costs, optometrist’s fees, and so on.

Medical assistance costs will be reimbursed upon presentation of supporting documents. A written request for reimbursement must be submitted to the IVAC Administrator Board.

In Terms of Rehabilitation

In the context of rehabilitation, the Crime Victims Compensation Act and the Worker’s Compensation Act provide, in accordance with section 56 et seq. (See Appendix 3) of the Worker’s Compensation Act (WCA), for a multitude of programs promoting maximum rehabilitation, as well as measures to ensure a return to work under optimal conditions.

Without limiting the generality of the following, the victim may have access to psychotherapy, moving expenses, protection costs including self-defence classes, modification to the home and main vehicle, home support services and child care expenses, various training programs, retraining, job search, and so on.

A needs assessment, including medical assistance, is conducted based on the victim’s medical reports and special needs in collaboration with a rehabilitation agent.

Eligibility for these programs and for rehabilitation under the Act falls into two categories:\[13]:

**Social rehabilitation** concerns victims whose physical or psychological consequences prevent them from returning to their normal lives, namely their regular activities.

**Vocational rehabilitation** focuses on victims (workers, students, recipients of employment insurance) whose physical or psychological consequences prevent them from re-entering the workplace, specifically their return to the job they held at the time of the traumatic event, or from pursuing their studies on a full-time basis.

Vocational rehabilitation benefits are also available as outlined in the IVAC Policy Manual as follows:

**Vocational rehabilitation benefits**\[14] allow a victim who is ready to return to the labour market to actively engage in a rehabilitation program. This victim no longer receives benefits for total temporary disability (TTD), because the physical or psychological injury is consolidated\[15].

Rehabilitation benefits are paid to the victim following a decision indicating that the physical or psychological injury is consolidated;

AND

the victim is actively engaged in a rehabilitation process and participates in the activities of an established and authorized rehabilitation program.

---

15 The term consolidation implies a physical or psychological stability in the victim’s condition, since no further treatment can result in any additional physical or psychological improvement in his state.
According to the IVAC Policy Manual, these programs are grouped under three headings (See Appendix 4): Rehabilitation Benefit Payments (RBP), Rehabilitation Training Benefits (RTB) and Jobsearch Rehabilitation Benefits (JRB).

In addition, if the victim suffers a loss of earnings upon returning to work, they may receive financial assistance in accordance with the economic stabilization policy\(^\text{16}\).

If the victim is unable to return to their former occupation or any other work, they may receive financial assistance in accordance with the social stabilization policy\(^\text{17}\) (see Appendix 5).

---

Reminder: Only persons recognized as victims within the meaning of the Act are eligible for vocational rehabilitation services.

---

**A FEW WORDS REGARDING REHABILITATION PROGRAMS**

An initial major review of these rehabilitation programs is necessary. The IVAC has broad discretionary power over the application of these programs and the victim has little control over the process. In fact, there is no legal process in place to review decisions regarding these medical assistance and rehabilitation programs. A victim who wishes to contest any such decision only has the option under the Act of requesting a reconsideration of the decision from a reviewing agent. The agent may reconsider the initial decision, or simply maintain it. The decision rendered by the reviewing agent after reconsideration is final and without appeal. The victim cannot contest it before the Tribunal administratif du Québec.

---


In SAS-Q-202147-1406\(^{[18]}\), the applicant requested that a therapeutic measure be resumed. The TAQ expressing its opinion on the plea of inadmissibility raised by the Attorney General of Quebec declares:


[18] This plea of inadmissibility is well founded.

[19] In fact, the only recourses available before the Tribunal with respect to the application of the Crime Victims Compensation Act (C.Q.L.R., chapter I-6) are those provided for in section 5.1\(^{o}\) and 2\(^{o}\) of Schedule I to the Act respecting Administrative Justice (C.Q.L.R., chapter J-3):

5. In terms of compensation, the Social Affairs Division hears the following appeals:

1° appeals against decisions concerning the rate of reduction in working capacity, pursuant to section 65 of the Worker’s Compensation Act (chapter A-3) for the purposes of the Act to promote good citizenship (chapter C-20) and the Crime Victims Compensation Act (chapter I-6);

2° appeals against decisions concerning the right to compensation or the quantum of compensation, pursuant to section 65 of the Worker’s Compensation Act for the purposes of the Act to promote good citizenship and the Crime Victims Compensation Act.

[20] These appeals have always been interpreted as not including challenges to decisions in the matter of medical assistance or rehabilitation benefits, including the resumption of a psychotherapeutic follow-up treatment.

[21] This interpretation was also extended to the application of the Crime Victims Compensation Act.

[22] All this explains that the contested decision in SAS-Q-202147 1406 states that it is final and without appeal.

[23] In view of the finding that the Tribunal does not have jurisdiction to entertain the dispute, the action must be declared inadmissible.

See also the TAQ decision (SAS-M-242326-1511)\(^{[19]}\) of August 5, 2016 with the same effect.

\(^{[18]}\) Free translation of Case SAS-Q-202147-1406 http://canlii.ca/t/h0p9b

\(^{[19]}\) See Case SAS-M-242326-1511 http://canlii.ca/t/gt0n0
This prohibition has no place within a so-called Social Law. It leaves too much room for discretionary power to the IVAC administrators. The legislators should amend this provision and allow victims to contest these decisions on appeal before the TAQ. The TAQ would then be able to establish specific parameters for the allocation of these programs. This possibility is already permitted in cases of workplace accidents and motor vehicle accidents.

In fact, the victim of a motor vehicle accident or a workplace accident may present an appeal before the Tribunal administratif du Québec (TAQ) or the Tribunal administratif du travail for any refusal from the administration concerning, among other things, treatments including medication, rehabilitation, capacity to resume pre-injury occupation, the determination of suitable employment, and so on.

Secondly, there is another aspect of these programs that warrants drastic changes, specifically regarding a more generous application of rehabilitation measures. In fact, it appears that eligibility for these programs is very often dependent on the IVAC’s recognition of physical and/or psychological functional limitations (IRTW: Incapacity to Return to Work). However, on this particular aspect, the IVAC has a very restrictive policy in this matter and very often underestimates the reality of the applicant’s situation, rarely assigning a corresponding IRTW status.
In case SAS-M-132162[^20], the Tribunal administratif du Québec per the Honourable Justices Galarneau and Fontaine,

**Analysis**

[55] The burden of proof rests with the party seeking to overturn the first instance decision. In this case, it must demonstrate, in a preponderant manner, that:

1. The rate of incapacity to return to work (IRTW) of 0.5% is not accurately set.

[56] An IRTW rate of 0.5% was determined by the respondent, based on the opinion of the Rehabilitation Services. He evaluated the IRTW on the basis of the medical evidence in the administrative file, as well as the Impairment Scale of the Workers’ Compensation Act (R.S.Q., chapter A-3).

[57] What about it?

[58] In the IVAC Policy Manual[^21], to determine the IRTW, the following is noted:

3. Policy Statement
   3.1 Eligibility

The assessment of incapacity to return to work must be made for any beneficiary of any of the laws mentioned above in this policy who is not deceased and who meets the following general criteria:

- be suffering from a physical impairment resulting from an injury sustained as a result of a criminal offence, an act of good citizenship or an aggravation.
- have functional limitations resulting from an injury sustained as a result of a criminal offence, an act of good citizenship or an aggravation.

3.2 Timing of the Assessment of Incapacity to Return to Work

Generally, the assessment of an incapacity to return to work is made after establishing the percentage of physical impairment or at the end of the rehabilitation process, if applicable, whichever is the farthest from the date of the criminal offence”. [...]

---

[^20]: Free translation of Case SAS-M-132162 http://canlii.ca/t/gncfx
In light of the preceding sections, the applicant is eligible for an IRTW because she meets the two general criteria established. It is important to note that there are no guidelines for setting this rate. The entire matter is at the discretion of the Tribunal.

The Honourable Huot, in his reply at the end of oral arguments, admitted that an IRTW would be granted. The Tribunal must therefore determine the reasonable rate of IRTW.

What is known is that the medical experts, including Drs. Bouchard, Lachapelle, Bélieveau and Nowakowski, are unanimous in their assessment of the applicant’s functional limitations and to the effect that she can work on a part-time basis while taking into account her limitations.

In light of the preceding sections, the Tribunal is satisfied, taking into account the applicant’s work capacity, her ability to adapt to stress, her low tolerance to fatigue, the severe constraints on employment and the prescribed functional limitations, that the IRTW of 0.5%, determined by the IVAC, is clearly insufficient. On the basis of the applicant’s testimony and independent medical assessments, and taking into account the applicant’s intellectual and physical capacities, it appears that work on a part-time basis is much more in line with the capacities described. The undersigned therefore assigns an IRTW rating of 50%.

These few examples clearly illustrate the problems victims face when applying to and qualifying for these programs. The policy of assigning a Permanent Disability (physical and psychological impairment and IRTW) by the IVAC is clearly prejudicial to the victims and often excludes them from the benefits of the Act (namely economic and social stabilization programs and any other programs requiring the determination of permanent sequelae, including IRTW).

---

22 See also the following cases: SAS-Q-130203-0609  http://canlii.ca/t/25527; SAS-M-008256-9811  http://canlii.ca/t/271v2; SAS-M- 198222  http://canlii.ca/t/gnchj
 REGARDING THE RETURN TO WORK

It is important to sensitize employers on the issue of returning to work for people dealing with such tragic events and to set up additional measures to facilitate the reintegration into the workplace for the victims and close relatives.

We believe it is essential for the victims to be able to benefit from the therapeutic monitoring provided by the IVAC in the context of a return to work, in order to help them overcome any difficulties that may arise in the process of returning to work.

We believe it is important to facilitate a gradual and adapted return with the employer or elsewhere on the labour market.

It is very important to advise the professionals and the victims of their rights to submit a new application to the IVAC in the event of a relapse or exacerbation in order to benefit from all the financial and therapeutic benefits provided for by Law.

THE ACT RESPECTING LABOUR STANDARDS

The Act respecting labour standards[23] provides that a victim, after three months of continuous service with the same employer, may take unpaid leave of absence under certain conditions, for a variable period lasting up to 104 weeks. This provision of the Act respecting labour standards is public policy and incorporated into most group policy agreements. We also encourage victims to check with their private or group insurance providers to see if they are eligible for compensation and treatment services under their plan.

[23] Act respecting labour standards, C.Q.L.R. c. N-1.1, s. 79.1 et seq. http://canlii.ca/t/530ps
FEDERAL INCOME SUPPORT FOR PARENTS OF MURDERED OR MISSING CHILDREN

The federal government has created a program called the Federal Income Support for Parents of Murdered or Missing Children\(^{24}\) (PMMC). The program provides subsidies for eligible parents who have suffered a loss of income as a result of missing work in order to cope with the difficulties associated with the death or disappearance of their underage child, when the death or disappearance is attributed to a probable criminal offence.

In a report\(^{25}\) dated August 16, 2017, Federal Ombudsman Sue O’Sullivan estimated that the program was not being utilized to its full potential, with less than 1% of the funds being allocated to the victims. Ombudsman O’ Sullivan recommends that this program place greater focus on the victims, namely showing greater sensitivity to the needs of a victim. She calls for better integration and a more flexible approach to increase access and eligibility to the program. She asks the federal government to make this program more accessible and recommends simplifying the entire process.

---


S O C I A L  A N D  L E G A L  R E C O M M E N D A T I O N S

We recommend a complete update of the Act to reflect the new realities of our society.

We recommend expanding the definition of ‘victim’ to include the relatives, father, mother and child, or other parental figure, without requiring proof of a direct causal link to the criminal offence.

We recommend amending the Act to allow victims to contest decisions dealing with medical assistance, rehabilitation and return to work resources, before an administrative review and appealing to the TAQ.

We recommend that victims have access to sustained therapeutic treatments during their return-to-work period in order to facilitate their reintegration into the workplace.

We recommend a greater flexibility during the process of returning to work, in order to favour a more gradual return.

We recommend that legislators create programs or information guidelines to make employers aware of this reality.

We recommend informing victims of the existence of the Federal Income Support for Parents of Murdered or Missing Children program, known as PMMC[^26^], which compensates for any lost wages resulting from a leave of absence from work due to the tragic event.

We recommend developing hiring incentives for employers to promote the employability of victims of a criminal offence and their families.

We recommend developing employability services, such as workshops for the purpose of easing the socio-professional integration of victims of a criminal offence and their families.

We recommend that people coping with such tragic events inform their employer of the situation and check whether there is any employee assistance program in place to support their return to work. This process should be completely confidential in order to protect the victim’s privacy.

We recommend that people coping with such tragic events inform their union representative and check whether there is any employee assistance program available. This process is completely confidential.

Resources and Appendices

This section provides a non-exhaustive list of resources available to employers, care providers and workers returning to the workplace.
FOR WORKERS WHO EXPERIENCED A TRAGIC EVENT

Association des familles de personnes assassinées ou disparues (AFPAD)
Provides assistance and moral support for its members and defends the interests of the families of people who were murdered or went missing under criminal circumstances.
http://afpad.ca/ 514 396-7389 or 1 877 484-0404

Association québécoise Plaidoyer-Victimes (AQPV)
Its mission is to defend and promote the rights and interests of victims of crime.
http://www.aqpv.ca/

Office of the Federal Ombudsman for Victims of Crime (OFOVC)
Provides free and confidential assistance to victims of crime, information on the rights of victims, services and programs offered by the federal government for victims in their own province, and refers to appropriate resources.
http://www.victimesdabord.gc.ca/ 1 866 481-8429

Crime Victims Assistance Centre (CAVAC)
Provides front-line services to victims, their families and witnesses of a crime.
http://www.cavac.qc.ca/ 514 277-9860 or 1 866 532-2822

Regroupement des Services d’intervention de Crise du Québec
Quebec Crisis Centers provide free, specialized crisis intervention services 24/7.
https://www.centredecrise.ca/
Integrated University Health and Social Services Centres (IUHSSC)
Ensures accessibility, continuity and quality of care for people in their region. They represent a network that people can access for any health or psychosocial problems.
For the IUHSSC nearest to you:
http://sante.gouv.qc.ca/repertoire-ressources/votre-cisson-ciuss/  

Direction de l'indemnisation des victimes d'actes criminels (IVAC)
The Crime Victims Compensation Act provides support and financial compensation to victims of crime and their families when there is proof of death.
http://www.ivac.qc.ca/  

Maison Monbourquette
Its mission is to provide assistance to people in mourning, after the death of a loved one. Maison Monbourquette has established a hotline (1 888 LE DEUIL), and offers individual and family sessions over the short term, as well as support groups (for children and adults), music and art therapy.

Ordre des psychologues du Québec
Has created an online tool to find a psychologist or licensed psychotherapist in your area.
https://www.ordrepsy.qc.ca/trouver-de-aide  

Suicide Action Montréal
Suicide Action Montreal offers support services, crisis workers and monitoring for people who are at risk of committing suicide, for their friends and family and for people affected by suicide, 24/7.
http://www.suicideactionmontreal.org/  1 866 277-3553
FOR THE VICTIMS OF A TRAUMATIC EVENT

Anxiety Disorders Clinic of the Douglas Mental Health University Institute
The Anxiety Disorders Clinic is a superspecialized consultation, assessment and treatment service for people between the ages of 18 and 65 who suffer from one or multiple anxiety disorders, including PTSD. To be admitted to the clinic, patients must be referred by a doctor and have a main diagnosis of anxiety disorder.
http://www.douglas.qc.ca/page/clinique-troubles-anxieux

Hôpital du Sacré-Cœur de Montréal – Anxiety Disorders Clinic
This clinic treats anxiety disorders, including PTSD, in adults only. Clients must be referred by a physician. The clinic conducts a psychological evaluation free of charge and offers cognitive-behavioural therapy (either individual or group).
http://ciusss-nordmtl.gouv.qc.ca/nos-installations/hopitaux/hopital-du-sacre-coeur-de-montreal/514 338-2222

Info-trauma
Info-trauma is a website for information on post-traumatic stress disorder, developed in collaboration with the Douglas Mental Health University Institute and McGill University.
http://www.info-trauma.org/splash.html

Institut universitaire en santé mentale de Montréal – Anxiety and Mood Disorders Program
People cannot contact the program for care and services directly. A referral from a physician is the only means of access to these services.
http://www.iusmm.ca/programme/troubles-anxieux-et-de-lhumeur.html
Institut universitaire en santé mentale de Québec – Anxiety Disorders Clinic
People cannot contact the program directly for care and services. Gaining access to these specialized and super-specialized services is done through the mental health access reception desk of the CLSC. Your physician must refer you to this reception desk.
http://www.ciusss-capitalenationale.gouv.qc.ca/nos-services/services-psychosociaux-et-sante-mentale/troubles-de-sante-mentale/vo

Douglas Mental Health University Institute
Is part of the Integrated University Health and Social Services Centre (IUHSSC) in the West Island of Montreal. Its mission is to offer cutting-edge care and services; advance and share knowledge in mental health.
http://www.douglas.qc.ca/

Health and Wellbeing Portal of the Gouvernement du Québec
Provides information on post-traumatic stress disorder.
http://sante.gouv.qc.ca/problemes-de-sante/etat-de-stress-post-traumatique/
FOR EMPLOYERS
AND WORKERS

Au bas de l’échelle
Provides information and training services on labour laws, a telephone information service on labour laws and especially on labour standards, as well as documents on psychological harassment in the workplace.
http://www.aubasdelechelle.ca/  514 270-7878

Centre de formation Monbourquette
Provides tools to various professionals who work with people coping with grief and brings awareness to the general public about the reality of grief in our society. It offers several training activities (e.g., Raising Awareness of the Grieving Process in the context of Traumatic Death) and various conferences (e.g.: namely How to support a grieving employee).
https://mbourquette.myshopify.com/  514 523-3596, poste 233

Community Justice Centers in Greater-Montreal (CJPGM)
Its mission is to promote access to justice by fostering the participation of citizens through legal information, support and referral services provided in addition to existing resources.
http://www.justicedeproximite.qc.ca/centres/grand-montreal/

Clinique juridique Juripop
The Juripop Legal Aid Clinic offers legal services at very modest cost to people excluded from the government legal aid, but who are financially unable to pay for the defense of their rights.
https://juripop.org/  1 855 JURIPOP, poste 245

Commission des normes, de l’équité, de la santé et de la sécurité du travail (CNESST)
Provides support to workers and employers in their efforts to eliminate workplace hazards at the source, promotes occupational health and safety, provides compensation for workers who have sustained an occupational injury, and rehabilitates workers who, as a result of an occupational injury, suffer from permanent impairment to their physical or psychological integrity.
http://www.csst.qc.ca/
Commission des normes du travail (CNT)
Answers questions about the Act respecting labour standards and its regulations. Also provides information on the procedures for filing a complaint with the CNT. http://www.cnt.gouv.qc.ca/

Emploi-Québec
Emploi-Québec’s mission is to contribute to employment and workforce development and fight unemployment, social exclusion and poverty to better serve Québec’s economic and social development. It manages public employment services as well as social solidarity services. http://www.emploiquebec.gouv.qc.ca/

Fédération des travailleurs et travailleuses du Québec (FTQ)
The Quebec Federation of Labour is Quebec’s primary union organization, committed to defending human rights and striving for greater social justice. The FTQ can help you set up a network of peer support groups in the workplace where it is present. https://ftq.qc.ca/

Réseau des carrefours jeunesse-emploi du Québec (RCJEQ)
The youth employment centres (CJE) support and guide young adults between the ages of 16 and 35 in their social and economic integration process, helping them move towards employment, return to school, or towards project development. http://www.rcjeq.org/
BIBLIOGRAPHY


BRILLON, P. Quand la mort est traumatique, Montréal, Québécor, 2012.


PERREAULT, N. L’accompagnement individuel auprès des personnes endeuillées à la suite d’une mort violente, Essai de maîtrise, Université de Montréal, 2012.


APPENDIX 1 - LEAVE OF ABSENCE DUE TO THE DEATH OF A LOVED ONE

The Act respecting labour standards\(^{27}\) includes provisions concerning leaves of absence due to the death or funeral of a relative that protect the majority of Quebec employees, whether they are full-time or part-time workers.

However, some employees are excluded\(^{28}\): self-employed workers within the meaning of the Act respecting labour standards, employees of the federal government and its corporations, employees of the Canadian Armed Forces, and employees of enterprises subject to the Canada Labour Code.

An employee may be absent from work:

5 days, including 1 day with pay, in the case of the death or funeral: of his spouse, of his child, of the child of his spouse, of his father or mother, of his brother or sister.

1 day without pay in the case of the death or funeral: of his son-in-law or daughter-in-law, of his grandparents, of one of his grandchildren, of the father or mother of his spouse, of the brother or sister of his spouse.

An employee of the clothing industry may be absent from work:

5 days, including 3 days with pay, in the case of the death or funeral: of his spouse, of his child, of the child of his spouse, of his father or mother, of his brother or sister.

1 day with pay in the case of the death or funeral: of his grandparents, of the father or mother of his spouse.

1 day without pay in the case of the death or funeral: of his son-in-law or daughter-in-law, of one of his grandchildren, of the brother or sister of his spouse.

The employee must notify his employer of his absence as soon as possible.

The leave of absence may only be taken from the day of death until the day of the funeral.

---

27 Act respecting labour standards, C.Q.L.R. c. N-1.1, s. 79.10. s. 79.12. https://www.canlii.org/en qc/laws/stat/cqqlr c-n-1.1/131654/cqqlr c-n-1.1.html
LEAVES OF ABSENCE AND SPECIAL CIRCUMSTANCES FOR VICTIMS OF A CRIMINAL OFFENCE AND THEIR FAMILIES

The Act respecting labour standards includes provisions allowing employees to be absent from work when they or a loved one is the victim of a criminal offence.

However, some employees are not eligible.

An employee may be absent from work, without pay, for a maximum of 52 weeks following the disappearance of his underage child.

If the child is found alive, the employee must return to work after no later than 11 days.

An employee on a leave of absence, whose missing underage child is found dead, is entitled to a leave of absence up to 104 weeks.

An employee may also be absent from work without pay for up to 104 weeks:

if he or his underage child sustains serious injuries as a result of a criminal offence

if his spouse or child dies as a result of a criminal offence.

The employee must have worked for the same employer for a minimum of three months to be entitled to any of these leaves of absence. The employer must be able to verify that the physical injury or death is the result of a criminal offence, or that the missing person is in danger.

The employee is not entitled to these leaves of absence if it can be demonstrated that he or the deceased (spouse or adult child) participated in the criminal office, or contributed, through gross negligence, to the harm suffered. If his underage child dies while participating in a criminal offence, the employee is entitled to a leave of absence.

---

Section 56[31]

56. The Commission takes such measures as it deems necessary and makes such expenditures as it deems expedient to assist a worker who is the victim of an accident or an occupational disease in his rehabilitation, to lessen or remove any handicap resulting from an injury and to facilitate his return to normal life and his reintegration into society and on the labour market.

56.1. In the exercise of the functions incumbent on it in matters of rehabilitation, the Commission may, in particular:

a) organize and provide rehabilitation services;

b) develop, support and promote the activities of professionals in the field of health, of health establishments, of departments and of any other organization dealing with rehabilitation and cooperate with them;

c) assess the services available for rehabilitation and their efficiency;

d) cause research to be carried out on new rehabilitation methods;

e) see to the effectiveness of the rehabilitative measures and bring about the appropriate corrections;

f) distribute any information on rehabilitation;

g) facilitate the access of a worker injured in an accident to consultation services in the field of rehabilitation;

h) ensure that the worker suffering from a disability following an accident or an occupational disease has access to consultation services, particularly in the fields of vocational guidance, psychology, social service and workforce, to favour his reintegration into the functions he held before his accident;

i) in the case where reintegration into the functions he held before his accident is impossible, provide for his re-education or training and furnish him with any form of assistance to enable him to have work adapted to his residual capacity;

j) ensure the granting of financial assistance for the worker suffering from a disability resulting from an accident or an occupational disease in the case where it deems it useful or necessary for his reintegration into work, during a period of training, education or apprenticeship or in other cases it determines by regulation; or

k) in the case of a permanent disability compelling the worker to stay in an establishment within the meaning of the Act respecting health services and social services (chapter S-5), favour the adaptation of his place of residence to the needs of that worker if such an adaptation may enable him to leave the establishment.

Rehabilitation Benefits Payments (RBP)

These benefits are paid during the assessment stage of the victim’s eligibility for rehabilitation services programs. The duration of authorized RBPs is determined by the IVAC administrators, but the benefits cannot be paid for more than one year.

Rehabilitation Training Benefits (RTB)

Rehabilitation Training Benefits are paid during the training stage of the rehabilitation process. The victim participates in a pre-authorized training program.

The victim must not be otherwise able to perform any other job that corresponds to his abilities and competence. The training plan must be realistic, i.e. based on the victim’s skills and abilities, as well as the labour market.

Rehabilitation Training Benefits are paid in the following cases:

- training programs in an educational institution or field;
- retraining programs in an educational institution or field;
- internship programs (acquisition of new knowledge).

The duration of authorized RTBs is determined by the IVAC administrators as part of a personalized training program, and the payment of rehabilitation training benefits (RTB) cannot exceed a total period of three years, including the training courses and the leaves of absence.

---

32 Free translation of the IVAC Policy Manual, Policy 5.2.
**Jobsearch Rehabilitation Benefits (JRB)**

These benefits are paid during the jobsearch stage of the rehabilitation process.

Benefits may also be paid to the victim:

- who, during his jobsearch period, completes an unpaid internship in the field; this internship then consists of the labour market exploration phase;

- or

- waiting for employment with his employer, who has formally agreed to resume employment within two months of receiving authorization from the program; in this case, the maximum duration of the program is two months.

Unless otherwise specified, Jobsearch Rehabilitation Benefits (JRB) last up to a maximum of one year and are authorized for predetermined periods as part of a job search program.

Whenever the victim is entitled to benefits from workforce training programs or employment insurance benefits, the amount of these benefits is deducted from the rehabilitation benefits paid by the IVAC administrators.
Eligibility

3. A worker is entitled to benefit from financial assistance in respect of social stabilization if, as a result of an accident, an occupation disease or an aggravation, he is unable to carry on his usual employment and has difficulty adapting to other appropriate and remunerated employment.

4. A worker is entitled to benefit from financial assistance in respect of economic stabilization if he:

3. A worker is entitled to benefit from financial assistance in respect of social stabilization if, as a result of an accident, an occupation disease or an aggravation, he is unable to carry on his usual employment and has difficulty adapting to other appropriate and remunerated employment.

4. A worker is entitled to benefit from financial assistance in respect of economic stabilization if he:

1º is unable, as a result of an accident, an occupation disease or an aggravation, to carry on his usual employment;

2º carries on other full-time or part-time employment;

3º derives from the other employment an income that is less than the income that he derived from the employment that he became unable to carry on as a result of an accident or an occupational disease or, in the case of an aggravation, that is less than the income used as the basis for computing his indemnity for permanent disability, where that is the case, or otherwise, as the basis for computing his indemnity for temporary disability; and

4º does not receive an indemnity for temporary total disability.
In Partnership

Douglas Institute University in Mental Health Institute

Fédération des travailleurs et travailleuses du Québec

Centre de Formation Monbourquette Support for the Injured

Justice Québec