COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss. **Division of Administrative Law Appeals**

Reed R.,[1]
Petitioner

v. Docket No. CR-22-0253

State Board of Retirement,
Respondent

Appearance for Petitioner:

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Administrative Magistrate:

Timothy M. Pomarole, Esq.

SUMMARY OF DECISION

The petitioner appeals the State Board of Retirement's decision to deny his application for accidental disability retirement benefits. The decision is affirmed. First, with respect to his claim under a personal injury theory, most of the specific incidents upon which he relies were not timely disclosed and thus cannot form the basis of a claim for accidental disability retirement. Those few specific incidents that are not time-barred from consideration did not cause his disabling symptoms. Second, under a hazard theory, the petitioner's repeated indirect exposure to violent or disturbing material during the relevant time period falls short of sustaining a hazard claim because such direct exposure is common and necessary to a great many occupations. To the extent the petitioner was exposed directly to some unspecified traumatic events, that exposure was not constant or

[1] At the petitioner's request, and without objection from the respondent, a pseudonym is used. *Cf.* G.L. c. 4, § 7, 26th para., (c).

continual, and thus cannot constitute a hazard.

DECISION

The petitioner, Reed R., appeals the decision of the State Board of Retirement ("the Board") to deny his application to retire for accidental disability. I held an in-person hearing on December 4, 2023. The hearing was recorded. I admitted exhibits marked A-W into evidence. The petitioner was the sole witness. The parties submitted post-hearing memoranda, whereupon the record was closed.

FINDINGS OF FACT

Based on the evidence presented by the parties, along with reasonable inferences drawn therefrom, I make the following findings of fact:

1. The petitioner started working at the Worcester County Sherriff's Department in 1998. (Exhibit A).
2. From 1998 until 2013, the petitioner worked as a correctional officer at the Worcester County House of Correction. (Testimony; Exhibit A).
3. For most of his time as a correctional officer, the petitioner was assigned to the institution's disciplinary detention unit,[2] which was a unit that housed inmates who had committed disciplinary infractions or who, for various reasons, could not be safely housed among the general inmate population. (Testimony).
4. Many inmates in the disciplinary detention unit engaged in violent or extreme behaviors. During his time as a correctional officer assigned to the unit, the petitioner personally responded to numerous inmate suicide attempts and acts

[2] The unit went through various name changes. (Testimony). This decision will use the term "disciplinary detention unit" throughout for ease of reference.

of self-harm, was assaulted on several occasions (in some instances requiring medical care), was threatened frequently, and was physically exposed to human waste and fluids on a number of occasions. (Testimony; Exhibit A).

5. Consistent with the challenges associated with this unit, a correctional officer would be assigned to the unit after having worked as a correctional officer for several years, and only if he or she had a fairly positive institutional record. For example, the correctional officer had to be free of pending internal affairs investigations and could not be the subject of too many inmate grievances. (Testimony).
6. In August 2010, the petitioner's primary care physician diagnosed him with anxiety. Thereafter, the petitioner commenced therapy and was prescribed medication. (Exhibit M).
7. At some point in mid-to-late 2012, the petitioner transferred to the Special Services Unit, where he worked as an investigator.[3] He held this position until his last day of work on August 16, 2016. In this role, he investigated potential crimes committed by inmates and other matters. His responsibilities included interviewing inmates and staff, collecting and examining documentary and physical evidence, taking photographs of possible crime scenes, preparing criminal charges, and escorting prisoners to court. The

[3] The parties did not direct my attention to any documents that definitively recite the date on which the petitioner transferred to the Special Services Unit, and at the hearing the petitioner was unsure of whether the transfer occurred in 2012 or 2013. The last report in the record that he filed as "Officer R." was filed on July 16, 2012, and the first report he filed as "Det. R." was filed on November 8, 2012. (Exhibit A). Accordingly, it appears that the petitioner's transfer occurred sometime between those dates.

petitioner was responsible for drafting investigative reports and other documents. (Testimony; Exhibit G).

8. As an investigator, the petitioner interacted with inmates and staff on a daily basis. He spent more time in inmate areas than he did at his desk. (Testimony).
9. The petitioner would respond to emergent inmate situations that might occur while he was in inmate areas and could be called upon to perform specific tasks, such as participating in a planned use of force.[4] The petitioner would also sometimes participate in inmate disciplinary hearings. (Testimony).
10. The petitioner received an injury to his rib cage while participating in a spontaneous use of force in November 2012, but there is little detail concerning this encounter and no indication that the petitioner sustained any psychological injury. (Exhibit A).
11. At some point while serving as an investigator, the petitioner was injured in the course of responding to an assault on a correctional officer. (Testimony). It is not clear whether this incident is the same as the November 2012 incident referenced above. If it is different, there is no report of this incident in the record and no detail concerning the event or the impact it may have had on the petitioner
12. Although the petitioner spent a great deal of time among inmates, would sometimes perform "hand on" duties (such as participating in planned or

[4] For example, if an inmate refused to leave his cell, the petitioner could be called upon to participate in a "move team," which would extract the inmate from the cell.

spontaneous uses of force), and received at least one physical injury as a result, during his time as an investigator, there was no evidence of any specific incidents in which he directly experienced the kinds of extreme inmate behaviors that often marked his time in the disciplinary detention unit. Instead, his exposure to such incidents was indirect, limited to investigating their aftermath. (Testimony; Exhibit A).

13. In the fall of 2013, the petitioner reported to his primary care physician that he was feeling anxious and restless. He was prescribed medication and began counseling with Jennifer Barris, LICSW to process "significant traumatic memories he suppressed for work in the prison where he witnessed suicides, drug overdoses, was assaulted numerous times and needs to go the hospital, punched, kicked, grabbed, watching prisoners eat batteries to kill themselves - amongst many more unspeakable incidents." He was diagnosed with post-traumatic stress disorder ("PTSD") and major depressive disorder. (Exhibit N).
14. Although the petitioner's transfer to the Special Assignments Unit may have "helped" (Exhibits M, R), he continued to experience symptoms such as depression, agitation, anxiety, and panic attacks during his time as an investigator. (Testimony; Exhibits N, O).
15. On August 16, 2016, the petitioner was at work and started to feel overwhelmed, reaching a "breaking point" (to use his words). He immediately reported this condition to his supervisor. There was no precipitating event that prompted this crisis. This was his last day of work.

(Testimony; Exhibit B).

16. On or about December 8, 2016, the petitioner filed an application for worker's compensation benefits, claiming PTSD and a date of injury of August 16, 2016. On October 2, 2017, the petitioner began to receive weekly worker's compensation benefits. On January 14, 2021, the Department of Industrial Accidents approved a lump sum settlement agreement. (Exhibit R).
17. On or about January 11, 2018, the petitioner filed an application for accidental disability retirement. In the section of the application asking him to identify the basis for his application, he checked both the box for "personal injury" and the box for "hazard." He stated that, between February 2, 1998 and August 17, 2016, he "sustained a series of incidents and was exposed to hazards" while in the performance of his duties that resulted in post-traumatic stress disorder. He claimed he ceased to be able to perform the essential duties of his position on August 17, 2016. (Exhibit A).[5]
18. In response to the section of the application requesting a description of "the incident(s) or hazard," the petitioner appended twenty-five pages of excerpts

[5] Most of the documents in the record indicate that the last date on which he was able to perform his work duties was August 16, not August 17. On balance, I think August 16 is more probable — in part because I believe that the Employer's Statement, which indicates August 16, is more likely to reflect precise record-keeping regarding the petitioner's final day of work. (Exhibit U). It is possible that the petitioner intended to convey that he was capable of working part of the day on August 16, but not at all on August 17. Whether the date is August 16 or August 17 is not material to the analysis, however.

from institutional disciplinary reports and incident reports he had filed.[6] These excerpts are short narratives from the reports. The excerpts describe over 100 incidents from June 5, 2005 through December 22, 2015. (Exhibit A).

19. The great majority of the reports were reports the petitioner filed prior to his transfer to the Special Services Unit. These reports recount incidents in which the petitioner personally responded to inmate suicide attempts (e.g., stopping attempts in progress, providing care during/in the immediate aftermath of an attempt), was assaulted by inmates, was physically exposed to human waste and other substances, or was threatened by inmates (the threats sometimes encompassed his family as well). (Exhibit A).
20. Nine of the reports were filed after the petitioner's transfer in 2012. Two of the reports relate to the same event on November 8, 2012, in which the petitioner, who was in a housing unit delivering summonses, assisted in a spontaneous use of force in response to an inmate who had refused orders to leave the day room. The petitioner injured his rib cage during this encounter. The other seven reports relate to investigations of claimed violations of the Prison Rape Elimination Act, 34 USC 30301 *et seq.* ("PREA"). These reports — which are undated, but recite the dates on which the petitioner was assigned to the relevant matters — concerned investigations of: (1) a claim that an inmate masturbated during a class (assigned on May 1, 2014); (2) an

[6] Because it is not always clear which reports are disciplinary reports and which reports are incident reports and because the distinction has no bearing on the discussion, they will all be referred to as "reports."

inmate's unspecified claim of a PREA violation by two staff members, later determined to be unfounded (assigned on June 2, 2014); (3) an unspecified PREA claim (assigned on October 24, 2014); (4) an inmate's claim of sexual assault by a staff member, later determined to be unfounded (assigned on November 18, 2014); (5) a PREA claim, later determined to be unfounded (assigned on December 1, 2014); (6) an incident involving two inmates who had engaged in sexual activity, resulting in disciplinary charges for disruptive conduct (assigned on June 4, 2015); and (7) an inmate's claim that another inmate had sexually assaulted him, determined to be unfounded when the claimant later acknowledged that the sexual relationship had been consensual (assigned on December 22, 2015).[7] (Exhibit A).

21. The petitioner investigated other matters — including inmate suicides, assaults, and efforts to smuggle narcotics into the institution — which are not reflected in these seven reports. (Testimony).

22. In February and March of 2019, the petitioner was examined by three separate Regional Medical Panel physicians: Michael Kahn, M.D., Melvyn Lurie, M.D., and Michael Rater, M.D. All three panelists opined that the petitioner was physically incapable of performing his work duties, that such disability was likely to be permanent, and that the disability is such as might be the natural and proximate result of the personal injury sustained or hazard undergone on account of which retirement is claimed. (Exhibits B-D).

[7] The record does not specify the outcomes of the investigations assigned on May 1, 2014 and June 4, 2015.

23. Dr. Kahn's discussion of the work-related causes behind the petitioner's disability focuses on his experiences with violent and disturbing incidents:

> Although he does not have nightmares, the experience of being subjected to abuse by the inmates, as well as having been involved with multiple deaths and violent interactions, became progressively overwhelming for him. In fact, he mentioned that one of the biggest problems in the job was "not knowing what was going to happen next." He recalls an episode of hanging out with officers at work in a relaxed way when all of a sudden the call came over the radio which was garbled, but was from a fellow officer who was in the process of being stabbed. This was quite horrifying for him, and led to a feeling of ongoing vulnerability, which eventually became intolerable.
>
> (Exhibit B).[8]

24. Neither Dr. Lurie nor Dr. Rater draw a causal link between any specific events or categories of work-related events (inmate assaults, for example) that may have caused the petitioner's condition. Their causation discussions refer in general terms to the petitioner's work. Both make brief mention of the petitioner's transfer to his investigator position, but neither discusses the impact of his investigator role on the trajectory of the petitioner's mental health (other than Dr. Rater noting a comment in the petitioner's records that the transfer to the investigator position "helped to a degree"). (Exhibits C, D).

25. The reports of other psychiatric evaluators and the records of the petitioner's treating professionals tend to discuss the petitioner's work environment and experiences in general terms. To the extent they reference specific incidents or types of incidents, they discuss the petitioner's experience with inmate suicide attempts and the assaults to which he had been subjected. There is no

[8] It is not clear whether the episode described in the passage above occurred while the petitioner was a correctional officer or while he was an investigator.

discussion of specific traumatic events the petitioner may have experienced while conducting investigations. (Exhibits M-U).

26. The medical panelists had apparently been provided with only a description of correctional officer duties when the they first conducted their assessments because, on December 12, 2019, the Board furnished the members of the medical panel with a list of duties for the Special Services Unit position, a letter from the Worcester County Sheriff's Office stating that the petitioner "was not performing 'Correctional Officer' duties while assigned to Special Services," and a letter from the petitioner's counsel stating that the Special Services Unit job duties were in addition to, and not instead of, the correctional officer duties. (Exhibits H, S, W).
27. The panelists provided supplemental responses, each stating that this information did not change their opinion. (Exhibits B-D).
28. In a letter dated October 1, 2021, the Board denied the petitioner's application for accidental disability retirement on the ground that he had "not proven that he sustained a compensable injury" or that "he met the statutory notice requirements in G.L. c. 32, § 7." The petitioner was approved for ordinary disability retirement. (Exhibit K).
29. The petitioner timely appealed. (Exhibit L).

CONCLUSION AND ORDER

To qualify for accidental disability retirement, an applicant must prove permanent and total disability "by reason of a personal injury sustained or a hazard undergone as a result of, and while in the performance of, his duties at some definite place and at some

definite time." G.L. c. 32, § 7(1). The petitioner bears the burden to prove, by a preponderance of the evidence, each fact necessary to establish his claim. *Narducci v. Contributory Ret. App. Bd.*, 68 Mass. App. Ct. 127, 136 (2007).

An injury is "a single work-related event or series of events." *Kelly's Case*, 394 Mass. 684, 688 (1985). A hazard is a "work-related condition that causes 'gradual deterioration' of the employee's health; to qualify, the condition must be 'not common and necessary to all or a great many occupations.'" *Jessica J. v. Massachusetts Teachers' Ret. Sys.*, CR-20-288, 2022 WL 18673981, at *4 (DALA June 3, 2022) (citing *Blanchette v. Contrib. Ret. App. Bd.*, 20 Mass. App. Ct. 479, 487 (1985)).

In this case, there is no dispute that the petitioner is disabled and that this disability is likely to be permanent. Instead, this case turns on the personal injuries and hazards alleged by the petitioner in support of his accidental disability retirement application. Specifically, the Board contends that (1) the petitioner did not provide timely notice of the alleged injuries and hazards and that, accordingly, they cannot form the basis for a viable accidental disability retirement claim; and (2) to the extent any of these injuries and hazards are not time-barred, they are insufficient to ground his claim. For the reasons that follow, I agree that most of the injuries and hazards alleged are time-barred and that those that are not time-barred cannot form the basis of an accidental disability retirement claim.

Because the petitioner proceeds under both a personal injury theory and a hazard theory, this decision will address both theories, starting with personal injury.

A. Personal Injury

An application for accidental disability retirement may usually rely only upon injuries or hazards occurring "within two years prior to the filing of the retirement application" unless "written notice thereof was filed with the board by such member or in his behalf within ninety days after its occurrence." G.L. c. 32, § 7(1).

Here, the specific incidents described in the petitioner's application, from June 5, 2005 through December 22, 2015, all occurred more than two years before his January 11, 2018 application.[9] And there is no evidence that the petitioner or the Worcester County Sheriff's Office filed any written notices of these events with the Board (let alone within the requisite 90-day period).

Although the incidents recited in the petitioner's application were not reported to the Board, several decisions from this Division have held that if a member submits a notice of injury to a department head, the department head's failure to file the notice with the relevant retirement board will not preclude the member from relying upon the injury when claiming accidental disability retirement. *Fenton v. Norfolk Cty. Ret. Bd.*, CR-10-651, at *8 (DALA July 19, 2013); *Rosario v. Fall River Ret. Bd.*, No. CR-13-233, at *12 (DALA Apr. 15, 2016); *Storlazzi v. Teachers' Ret. Bd.*, No. CR-01-585, at *9 (DALA Jan. 8, 2002) (*aff'd* Contributory Retirement Appeal Board ("CRAB") May 16, 2002);

[9] To be precise, for the last seven incidents listed in the application (recounting investigations the petitioner performed), the only dates provided are the dates on which the petitioner was assigned to these investigations. It is therefore possible that the investigations, and thus the "incidents," extended beyond their respective assignment dates. For example, the investigation the petitioner was assigned on December 22, 2015 could, in theory, have lasted past January 11, 2016, thus bringing everything that happened past that date within the two-year window. That said, there is no evidence regarding how long these investigations lasted, and the petitioner bears the burden of proof. Accordingly, for purposes of this decision, the only date in the record is the date of assignment.

Marion v. Lowell Ret. Bd., No. CR-91-1714, at *11 (DALA Apr. 15, 1993) (*aff'd* CRAB Nov. 22, 1993). Support for this proposition in this Division has not been uniform, however. *See Clifford v. State Bd. of Ret.*, CR-16-187, 2017 WL 11805068, at *5 (DALA Oct. 20, 2017).[10]

I need not resolve this tension in the decisional law because even if I were to hew to the majority position, it would not avail the petitioner because his reports are not notices of an emotional or psychological injury. Although an employee's report to his or her employer need not memorialize "the materialization of destabilizing symptoms" to serve as notice under §7(1), *Sagendorph v. Hampden County Reg. Ret. Bd.*, CR-21-631; CR-22-117, 2023 WL 4846321, at *9 (DALA July 21, 2023) (citations omitted), where the injuries are psychological in nature, its "content and circumstances" must "communicate the likelihood that the member may have suffered severe emotional harm." *Gonglik v. Westfield Ret. Sys.*, CR-21-425, 2024 WL 215938, at *3 n.4 (DALA Jan. 12, 2024) (citations omitted).

Here, although many of the reports the petitioner filed suggest that he was exposed to extreme inmate behaviors and suffered some *physical* injuries while assigned to the disciplinary detention unit, they appear to have been standard institutional

[10] In a recent decision, the Contributory Retirement Appeal Board states: "That department heads are directed by G.L. c. 32, § 7(3)(b) to file reports of injuries sustained in the performance of [a] member's duties … cannot excuse the member's failure to file notice of his injury." *Benoit v. Everett Ret. Bd.*, CR-14-821, 2023 WL 11806155, at *4 (CRAB Sept. 14, 2023). It also noted that "a department head's knowledge of an injury, where no written report or record exists, is also insufficient to fulfill the retirement law's notice requirements, which require written notice or a written record on file in the department's official records. *Id.* at *4 n.42 (citing G.L. c. 32, § 7(1), (3)). These statements do not appear to address situations in which the member filed a notice of injury with a department head who omits to furnish notice, in turn, to a retirement board.

disciplinary and incident reports and apparently bore no designation, such as "critical incident," that would have alerted The petitioner's superiors that he may have suffered emotional harm and might require mental health intervention. *Cf. Sagendorph*, *supra*, at *2, 10 (noting that member's incident report was labeled as a critical incident, the purposes of which "were to identify events that might compromise employee wellbeing and to provoke mental-health interventions"). Neither the context nor the content of these reports would have placed the petitioner's employer or the Board on meaningful notice of a likelihood that the events depicted therein caused him a psychological injury. *See Murray v. Norfolk County Ret. Bd.*, CR-08-443, at *17 (DALA Nov. 10, 2011) (noting that institutional reports written by correction officer were not notices of injury, but rather "institutional incident reports filed in the normal course of business"); *Boothby v. Hull Ret. Bd.*, CR-06-460, at *14 (DALA Aug. 24, 2007) (concluding in case involving claims of PTSD that incident reports reflecting firefighter's participation in certain calls insufficient to constitute notice because they did not indicate that the employee was adversely affected psychologically by the incidents).

In sum, none of the specific incidents outlined in the petitioner's application fall within the timeframes contemplated by § 7(1). Nevertheless, the failure to comply with § 7(1)'s notice provisions will not necessarily bar reliance on an otherwise time-barred injury or hazard if the member "received [worker's compensation] payments on account of such injury or hazard under the provisions of chapter one hundred and fifty-two." G.L. c. 32, § 7(3)(b). The underlying premise behind this exception seems to be "that the employer and the board would have notice of the injury without the member filing a separate notice of injury because, pursuant to G.L. c. 32, § 7(3)(b), the employer is

required to notify the board in writing of the time, place, cause and nature of the injury, together with any other relevant information." *Murray*, *supra*, at *18-19.

Here, the Board does not dispute that the petitioner's worker's compensation benefits "were on account of" the alleged injuries or hazards alleged in his application for accidental disability retirement benefits. Accordingly, the worker's compensation exception applies. It does not, however, preserve all of the otherwise time-barred incidents recited in the petitioner's application.

Section § 7(3)(b) contains no express time limit to the injuries or hazards that may be preserved under the worker's compensation exception, but the Contributory Retirement Appeal Board ("CRAB"), whose determinations in retirement cases are binding on this Division, has construed the exception as preserving only injuries and hazards occurring within the two years preceding the filing of the worker's compensation application. *Stolpinski v. Hampshire Cty. Ret. Bd.*, CR-19-0038, at *11 n. 4 (DALA May 14, 2021) (discussing *Zajac v. State Bd. of Ret.*, CR-12-444, 2015 WL 14085625, at *3 (CRAB Aug. 21, 2015) and *Baer v. Boston Ret. Bd.*, CR-13-279, at *8 (CRAB May 25, 2017)). Limiting eligible injuries and hazards to those occurring within the two years preceding the worker's compensation proceedings is sensible insofar as it mirrors the two-year timeframe provided in § 7(1) and promotes the purpose behind the worker's compensation exception, which is "intended to allow an opportunity to investigate." *Zajac*, *supra*, at *3.

Accordingly, because the application for worker's compensation was filed on December 8, 2016, the only two incidents listed in the application that may form the basis of the petitioner's application are those that took place within two years of that date, i.e.,

December 8, 2014 or later. There are only two incidents that unquestionably fall within that time-frame: the investigation assigned to the petitioner on June 4, 2015 and the investigation assigned on December 22, 2015. (Exhibit A). It is possible that some of the investigations, although assigned prior to December 8, 2014, extended past that date, but there is no evidence of this. Nor has the petitioner furnished any evidence that the incidents arising from his work in the department disciplinary unit persisted past December 8, 2014.

The investigations assigned on June 4, 2015 and December 22, 2015 are not a sufficient basis for an accidental disability retirement claim under a personal injury theory. There is no support in the opinions of the medical panelists, or anywhere else in the record, that these particular incidents played any causal role in the petitioner's PTSD, which was diagnosed in 2013, or that they aggravated the petitioner's preexisting PTSD to the point of disability.

B. Hazard

The petitioner's claim for accidental disability retirement does not fare any better under a hazard theory. The provisions of § 7(1) and § 7(3)(b) operate much the same way with respect to the hazard theory as they do for personal injury, with one exception: the claim under a hazard theory is not tethered to the investigations assigned on June 5, 2015 and December 22, 2015. Under a hazard theory, the petitioner's disability would not have to have been caused by specific identifiable incidents, but rather through the gradual deterioration of his emotional health as a result of hazards that persisted through the two years preceding his application for worker's compensation benefits. *See Sibley v. Franklin Reg'l Ret. Bd.*, CR-15-54, 2023 WL 11806176, at *7 (CRAB May 26, 2023)

(determining that member's accidental disability retirement claim under hazard theory was based not on specific incidents, but rather on the cumulative effect of conditions that persisted during the relevant time-period).

As a threshold matter, it is necessary to distinguish between the potential hazards posed by the petitioner's work in the disciplinary detention unit and those arising from his time as an investigator. It is possible that the petitioner's personal exposure to suicidal behavior by inmates, the threats and assaults he experienced, and other such disturbing events from his time at the department disciplinary unit — when viewed collectively — amounted to a hazardous condition for purposes of the statute. *See Blanchette*, 20 Mass. App. Ct. at 487 n.7 (observing that hazards resulting in "[m]ental incapacity" could include "constant exposure to life threatening situations or to continual traumatic or depressing events"). I do not need to decide whether these conditions constituted a hazard because any such hazards did not persist past late 2012, when the petitioner transferred to his role as an investigator, which was well before the two years preceding the petitioner's worker's compensation claim.

Accordingly, whether the petitioner can successfully claim accidental disability retirement under a hazard theory turns on whether his experiences as an investigator amounted to a hazard within the meaning of the statute. To constitute a hazard, however, the condition must be "'not common and necessary to all or a great many occupations.'" *Jessica J.*, *supra*, at *4 (citing *Blanchette*, 20 Mass. App. Ct. at 487). CRAB has held that "[i]ndirect exposure to violence is 'necessary and frequent' for an array of law-and-order professionals, including police officers, victim advocates, prosecutors, defense attorneys, judges, courtroom clerks, court officers, probation officers, and interpreters."

Susan S. v. A Local Ret. Bd., 2022 WL 18671534, at *3 (DALA June 17, 2022) (quoting *Morse v. State Bd. of Ret.*, No. CR-13-491, at 6-8 (CRAB Aug. 1, 2016)). The petitioner's investigations may have exposed him to violence and to disturbing circumstances and events, but that exposure was indirect, and consistent with that experienced by "an array of law-and-order professionals." In short, the petitioner's indirect exposure to disturbing inmate behavior falls far short of a hazard as that term has been construed by CRAB.

It is possible that, even as an investigator, there may have been occasions on which the petitioner was directly exposed to traumatic events. After all, most of his working hours were spent among inmates, and he needed to respond to unexpected situations. The evidence of such incidents is threadbare, however, and, to the extent any such incidents occurred, there is no indication that they had the constancy and continuity required to constitute a hazard. *Jessica J.*, *supra*, at *3 (observing that, in the mental-health context, "the paradigm of a hazard is 'constant' or 'continual' exposure to 'life threatening situations' or 'traumatic events.'" (citing *Blanchette*, 20 Mass. App. Ct. at 487 n.7)).

For the foregoing reasons, the decision of the State Board of Retirement to deny the petitioner's application for accidental disability retirement is AFFIRMED.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

/s/ Timothy M. Pomarole

Timothy M. Pomarole, Esq.
Administrative Magistrate

Dated: November 29, 2024