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Without Prejudice

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2020-2021 OIAA Executive Council

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THE WP RADIO

PODCAST NETWORK

The OIAA won't be left behind in 2020. If 2020 has shown us anything, it is the need to continue to launch new projects and ventures. We continue to improve and build on the WP Radio.

WP Radio has turned into a podcast network, which will host five shows, all with different topics, themes and engagements. The podcast continues to be a great opportunity for people in the industry to share stories and ideas.

The shows as part of the network are:

Out & About Presented by Genesis Rehab

The Case Law Show Co-Presented by Templeman LLP and Dye & Russell LLP

Audio Articles & Event Keynotes Presented by SCM Group of Companies

Chapter Check-in Presented by WINMAR Lanark

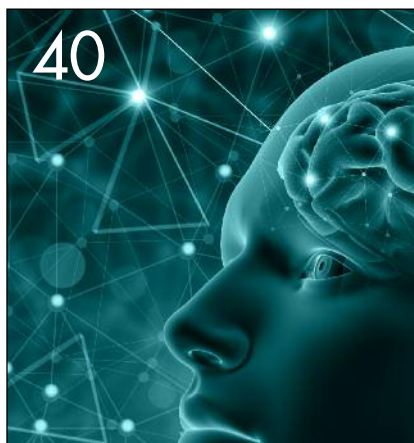
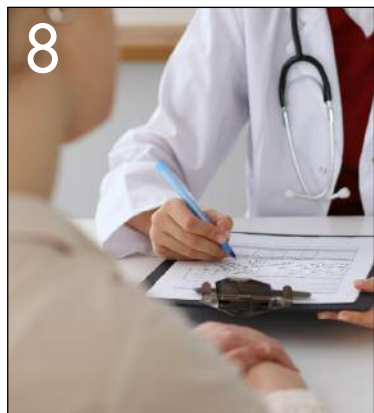
The OIAA Trivia Show Presented by Arcon Forensic Engineers

We are excited to be working with these great companies and can't thank them enough for their support.

The WP Radio Podcast Network will be filled with stories, engagement and interviews with people coming from all walks of life to give our listeners the best possible experience. That's why, as long as you've been listening, the OIAA Trivia Show will give you the opportunity to win tickets to your favourite sporting events, just for listening to all previous episodes. The more you know about each episode, the better chance you have of winning.

Thank you to all of our supporters and listeners of the WP Radio, and there is no better time to adjust then now.

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Simone Cybulski
President, OIAA



President's Message

A very important milestone is being made in the OIAA's time as an association. Founded in 1931, the last 90 years have been a lifetime of memories shared by members across the province and as the organization continues to grow and adapt to the landscape, this year is no different. Out of 90 presidents, twelve have been woman and I couldn't be more proud to become lucky number thirteen.

My name is Simone Cybulski and I have been a member of the organization for approximately 20 years and I am so proud to make the 90th year of the OIAA my presidency. I hope to leave a lasting legacy in the association of inclusion and set the tone for years to come.

Even though 2021 is still four months away, the upcoming season for the OIAA is underway. This year has brought us so many challenges, obstacles to overcome, and adjustments that we've all had to make. While this has been a difficult year for everyone, in so many different ways, we're always one day closer to being able to gather again, and that is something we can all look forward to.

We want to make sure we can keep the spirit of the organization alive, which is why we're absolutely dedicated and using every resource possible to ensuring that this year's challenges don't let us fully embrace what the OIAA is about. New projects and opportunities will be available for members and vendors of the OIAA alike, as we create a community that doesn't suffer just because we're not in the same room.

Our upcoming season will be filled with opportunities to connect, speak and listen to others, and educate each other on various topics. This year, we will be offering monthly seminars separate from our events, that will be not only a great educational opportunity, but another chance to communicate and network with one another. These topics will cover a wide range of genres, from injury, auto physical damage, soft skills, MVA investigations, IRB/loss of income claims, business interruption losses, all lines (leader panel) and building construction.

This December, we're making sure the Holiday season is one that we can give back, which is why we are doing a "Hands of Hope" Christmas Drive and giving the less fortunate an opportunity to enjoy the holidays with as little stress as possible.

In February, our annual Claims Conference will be entirely virtual. Announcements on attendance and the operations of the conference will be announced in the coming months, but this will be a great opportunity to showcase how innovative and forward- thinking the OIAA is becoming.

Stay tuned for the conference details because this is something we are really excited about.

In order to make the upcoming season one that everyone can hopefully participate in, we've decided to move our Past Presidents night from October to March. This is done with the hope that we're able to host our first in-person event of the season. In March, we're excited to host a night celebrating 90 years of Past Presidents. This is a landmark year and every president in the organization is invited for a night to be celebrated for their efforts.

If it is safe to do so, the OIAA is invited to come to the president's hometown for a day of sightseeing in Kingston. The city has so much history and entertainment to offer, and we can't wait to show you around.

The final event of the year will be a reverse kickoff, at the annual golf tournament as a celebration of the 2020/2021 season. We want to have an awesome time with everyone and encourage everyone to join us for a great day of golf, networking and enjoying time together!

WP Radio will continue to release episodes every month as part of their podcast network. If you are interested in being a part of the podcast network in any way, whether through being on a show, sponsorship or a general inquiry, please email terry.doherty@aviva.com.

WP Magazine is continuing to produce content and we are excited that we have the opportunity to take the time to share stories about our adversity that we are all overcoming. This organization is entering its 90th year, and that is something that every member who has ever been a part of the OIAA should be so proud of. We've also decided that we want to make sure the OIAA is committed in their charitable pursuits, so we have chosen the Juvenile Diabetes Research Foundation to donate our resources to. We also want to make sure that we can hear stories from our own members of the organization, which is why we're giving members and opportunity to share their stories of overcoming juvenile diabetes.

This charity is very close to me personally and I know it has affected so many people, including two young men, children of two local members in my chapter of the OIAA, which is why this will be a great chance to give back.

If 2020 has taught us anything, it's that there is no better time to adjust.

#TimeToAdjust

Tough times never last, but tough people do. - Robert H. Schuller

Simone Cybulski

President, Ontario Insurance Adjusters Association

OIAA - Executive Council 2020 – 2021



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September Kick Off.....	Zohair Nassur	Carrie Evans, John Slattery
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WP
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Accident Benefits COVID-19 Edition: IRB vs CERB (page 8)

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Dark Rainy Roads and Pedestrian Collisions – Why It Happens! (page 16)

Alan Morris, PhD, P.Eng., has consulted to insurance and legal industries for more than 10 years. Dr. Morris has investigated countless motor vehicle accidents involving cars, heavy trucks, motorcycles, cyclists and pedestrians, to help establish liability and provides expert biomechanics consulting to establish the relationships between collision type, severity, and occupant injuries in specific motor vehicle accidents.



Teresa Mitchell

Cannabis One Year Later: Where Are We? (page 34)

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Dr. Jonathan Evan Siegel

Psychological Testing: How Confident Are We In Confidence Intervals? (page 40)

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Psychological Testing: How Confident Are We In Confidence Intervals? (page 40)

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Accident Benefits COVID-19



Edition: IRB vs CERB



Even the world of statutory accident benefits has to deal with novel issues in the time of COVID-19.

Imagine the following scenario:

An individual is involved in an automobile accident. They sustain injuries and are unable to return to work. They apply for statutory accident benefits. They are entitled to receive income replacement benefits as long as they suffer a substantial inability to do the essential tasks of their own employment.

*By Devan Marr, Lawyer
Strigberger Brown Armstrong LLP*

Fortunately, after six months their medical condition improves to the point that they can return to work.

They do so. One month later, Ontario declares a state of emergency due to COVID-19. The claimant's employer shuts down and they find themselves without work. They apply for government assistance under the new Canada Emergency Response Benefit. They also turn back to their accident benefits insurer and ask for their income replacement benefits to be re-instated.

What happens next? Should they get both? I am going to say "no", at least in most cases.

IRB then CERB – One but not both

The Federal government passed the Canada Emergency Response Benefit Act, as part of its comprehensive (and still changing) *Covid-19 Emergency Response Act*. The Canada Emergency Response Benefit, also called "CERB", provides a taxable income support payment of \$500.00 weekly for individuals for four weeks at a time. Individuals must re-apply every 4 weeks and confirm eligibility. It is available from March 15, 2020 to October 3, 2020. Currently, to be eligible for the



CERB, an individual must:

- live in Canada and be at least 15 years old
- had income of at least \$5,000 in 2019 or in the 12 months prior to the date of their application.
- stopped working **“for reasons related to COVID-19 for at least 14 consecutive days”** or are eligible for Employment Insurance regular or sickness benefits or have exhausted their Employment Insurance regular benefits or Employment Insurance fishing benefits between December 29, 2019 and October 3, 2020 and
- have not voluntarily quit their job

Since rolling out this program, the government has continued to expand entitlement, workers can receive the CERB for up to 24 weeks, assuming they remain eligible.

Under Ontario's *Statutory Accident Benefits Schedule*, a claimant is entitled to a non-taxable income replacement benefit of 70% of their gross employment income, up to a maximum of \$400.00 weekly. In order to be entitled to income replacement benefits under the SABS, a claimant must (generally) be employed at the time of the accident. They also need to sustain an impairment resulting from an accident that causes a “substantial inability to perform the essential tasks of that employment.”

Let's go back to our example scenario. It is clear the claimant is without income and possibly unemployed. What was the cause? What changed? Was it because of their accident related impairment? Or was it because of the COVID-19 closure? Someone might argue “well it was both!” but that seems to run contrary to the purpose of the CERB and



“I really don't mind coming into the office to work.”

Welcome Back!



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Someone who qualifies for IRB first and then CERB (or the other way around), could conceivably receive more money than if they were not injured/laid off at all.

the standard “but for” causation requirement under the SABS.

It is difficult not to be caught up in the “unprecedented” nature of the current crisis. An employer shuttering their business because of an emergency order is not dissimilar to shuttering their business for lack of revenue. In that case, it is clear that it is not the accident related impairments that caused the claimant’s unemployment. Conceptually, the same logic applies to COVID-19 related dismissals and lay offs. It is a difficult position for the claimant to be in but ultimately it is not the result of accident related impairments.

CERB then IRB – Maybe both but for how long?

What happens if the situation is reversed? Our claimant is dismissed from employment and then is involved in an automobile accident.

Assuming they satisfy the requirement of being employed for 26 of the last 52 weeks, or was receiving benefits under the *Employment Insurance Act* at the time of the accident, they would be eligible for IRBs.

What about the CERB? In the case of a laid off employee who is not on EI, conceivably they may get both. Because of how the CERB works, if the claimant was receiving EI before March 15, 2020, they are not entitled to apply for CERB until their EI runs out. In that case, they may only be eligible for IRBs.

In this situation, the tricky question is going to be deductibility. Someone who qualifies for IRB first and then CERB (or the other way around), could conceivably receive more money than if they were not injured/laid off at all. The CERB currently allows recipients of the CERB to earn no more than \$1,000 in “income” from employment and/or





self-employment income during the period of their claims. Section 6(1)(iv) of the *CERB Act* allows additional "income" to be prescribed to

limit eligibility but as of writing this blog, collateral benefits like IRBs, long-term disability benefits, or otherwise, have not been prescribed.

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What about IRB, then CERB, then IRB?

Ontario is no longer in a state of emergency and many employers have resumed in-person operations. What is a claims handler to do if the employer from our first example re-opens but the employee claims they are now unable to return? Maybe because of concerns of COVID-19, or allegations of deconditioning resulting in a resurgence of their accident related injuries, or an exacerbation of psychological difficulties due to living in lock down. In some cases, they may no longer be eligible for the CERB. Do they become eligible for IRBs? The only good answer is probably, "it depends".

The Take-Aways

Each case is going to depend on its unique facts. Claims handlers faced with renewed claims for income replacement benefits should take a hard look at the underlying reasons for the inability to earn an income. The timing of the request, updated medical documentation, the employer's reason for the work stoppage, and the claimant's CERB status will be essential elements needed to properly evaluate the renewed claim.

The alternate case of CERB then IRB should be a rare. Because of the significantly reduced use of automobiles during COVID-19 and physical distancing, it would be surprising if a claim like this ever made its way to an adjuster's desk. However, if it did, a careful review of any amendments and updated regulations to the CERB would be the first place to look. Ultimately, the CERB is a taxable benefit that some consider similar to benefits under the *Employment Insurance Act*.

As it stands, the *Canada Emergency Response Benefit Act* provides

for exclusions to CERB eligibility to be included by regulation. We will likely continue to see amendments to the eligibility criteria as the situation evolves. Given that governments of all stripes like to consider themselves the "payer of last resort", it would be unsurprising if other forms of income, including income replacement benefits, might exclude individuals from CERB eligibility.

Until we get a look at updated regulations, much of this is speculation. Until then, there will undoubtedly be more novel questions for people to deal with like, "can we stop using the word unprecedented yet?" and "should I cut my own bangs?".

Stay safe. Wash your hands. Don't cut your own bangs.



Devan Marr is a lawyer at Strigberger Brown Armstrong LLP. As the progeny of Canadian diplomats, Devan grew up in five different

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A dark, rainy street scene. In the foreground, the lower half of a dark-colored car is visible, including its rear wheel and the side of the body. The car is wet, with raindrops visible on its surface. The background is blurred, showing a street with white lane markings and a person walking in the distance. The overall atmosphere is dark and moody, with a strong blue tint.

Dark Rainy Roads and Pedestrian Collisions – Why It Happens!

A close-up, low-angle shot of a car's front end, focusing on the headlights and grille. The car is moving through heavy rain at night, with water droplets visible in the air and on the car's surface. The headlights are on, illuminating the wet pavement. The overall color palette is dark blue and black, with bright white light from the headlights.

The rainy winter months are the worst for pedestrian fatalities and serious injuries in urban areas, with dark nights, slippery roads, lower visibility and darkly-clothed pedestrians increasing the risk of a motor vehicle colliding with a pedestrian.

*By Alan Morris, PhD, P.Eng.,
Accident Reconstruction and
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Dark Rainy Roads and Pedestrian Collisions

Statistics

The British Columbia Coroners Service reviewed pedestrian deaths by months from years 2010 through 2016 and established that the months from September through January saw a significant increase in the average number of pedestrian deaths. This time of year coincides with reduced light. See Figure 1.





Figure 1: British Columbia Average Pedestrian Fatalities by Month during 2010 through 2016.

A 2017 Insurance Corporation of British Columbia survey revealed that 9 in 10 drivers surveyed worried about hitting a pedestrian at night in wet weather, and 8 in 10 pedestrians don't feel safe in these conditions.

Toronto Police Services has a database of motor vehicle/pedestrian collision since where a pedestrian was killed or seriously injured (KSI). Figure 2 shows pedestrian KSI incidence in Toronto between 2007 thru 2017.

The Toronto pedestrian KSI data indicated the following:

- 5,000 Killed or Seriously Injured (KSI) pedestrian collisions (avg. 455/year) occurred between January 2007 and January 2018
- 1,081 KSI pedestrian collisions (21.6 % of all incidents) occurred on wet roads
- 734 KSI pedestrian collisions (14.7% of all incidents) occurred on wet roads while it was raining
- 561 KSI pedestrian collisions (11.2% of all incidents) occurred on wet roads while it was raining and dark outside
- Of all KSI pedestrian collisions that

occurred in the dark on wet roads while raining, 81 (14.4%) of KSI pedestrian collisions occurred between 5am and 8am, 192 (34.2%) of KSI pedestrian collisions occurred between 4pm and 8pm, and 278 (49.6%) of KSI pedestrian collisions occurred between 8pm and 5am

- Historical weather data indicates that rain falls, on average, on 34% of the days each year

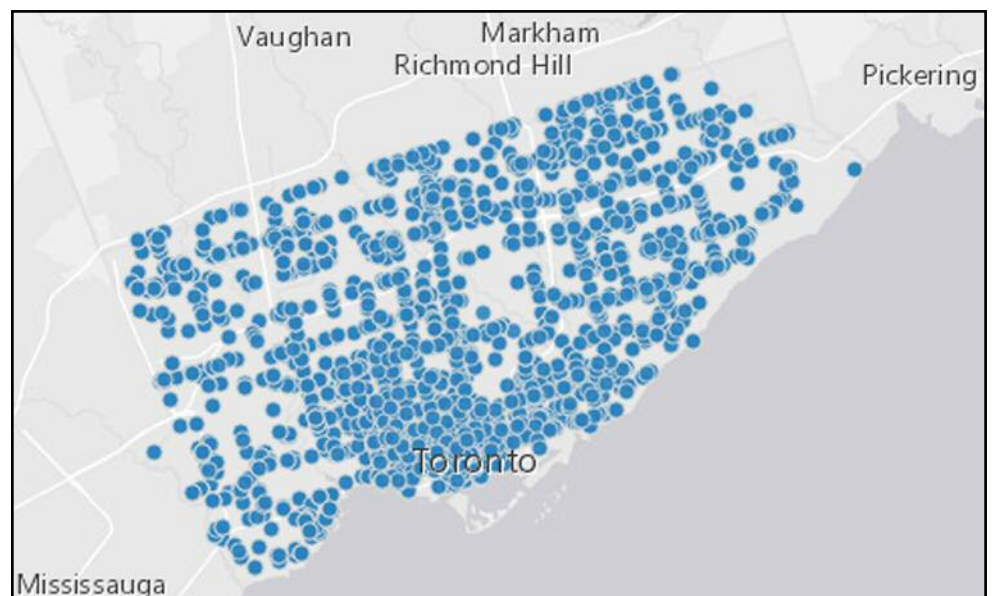


Figure 2: Killed or Seriously-Injured Pedestrian Collisions in Toronto 2007-2017 by Location (Toronto Police Services).

Factors Leading to the Pedestrian Fatalities on Dark Rainy Roads

Wet roads will reflect light

- A black asphalt road has a rough texture that normally scatters and absorbs a large percentage of incident light. A rain-covered road is inherently smoother, causing a large amount of the incident light, coming at a low angle from headlights, to be reflected and making it harder to see the road then when the road is dry.

Pedestrian Clothing – Typically Dark and Non-Reflective

- In addition to a driver’s reduced ability to detect objects and signs due to rain, pedestrians are harder

to see at night as many wear dark and non-reflective clothing.

- For a driver at night in a vehicle with its conventional low-beam headlight, Table 1 shows the detection distances to detect a pedestrian coming from the near (right) side of the roadway.

Clothing Type	Low-Beam Headlight Detection Distance [metres]
Light-coloured	99
Gray-coloured	59
Dark-coloured	26

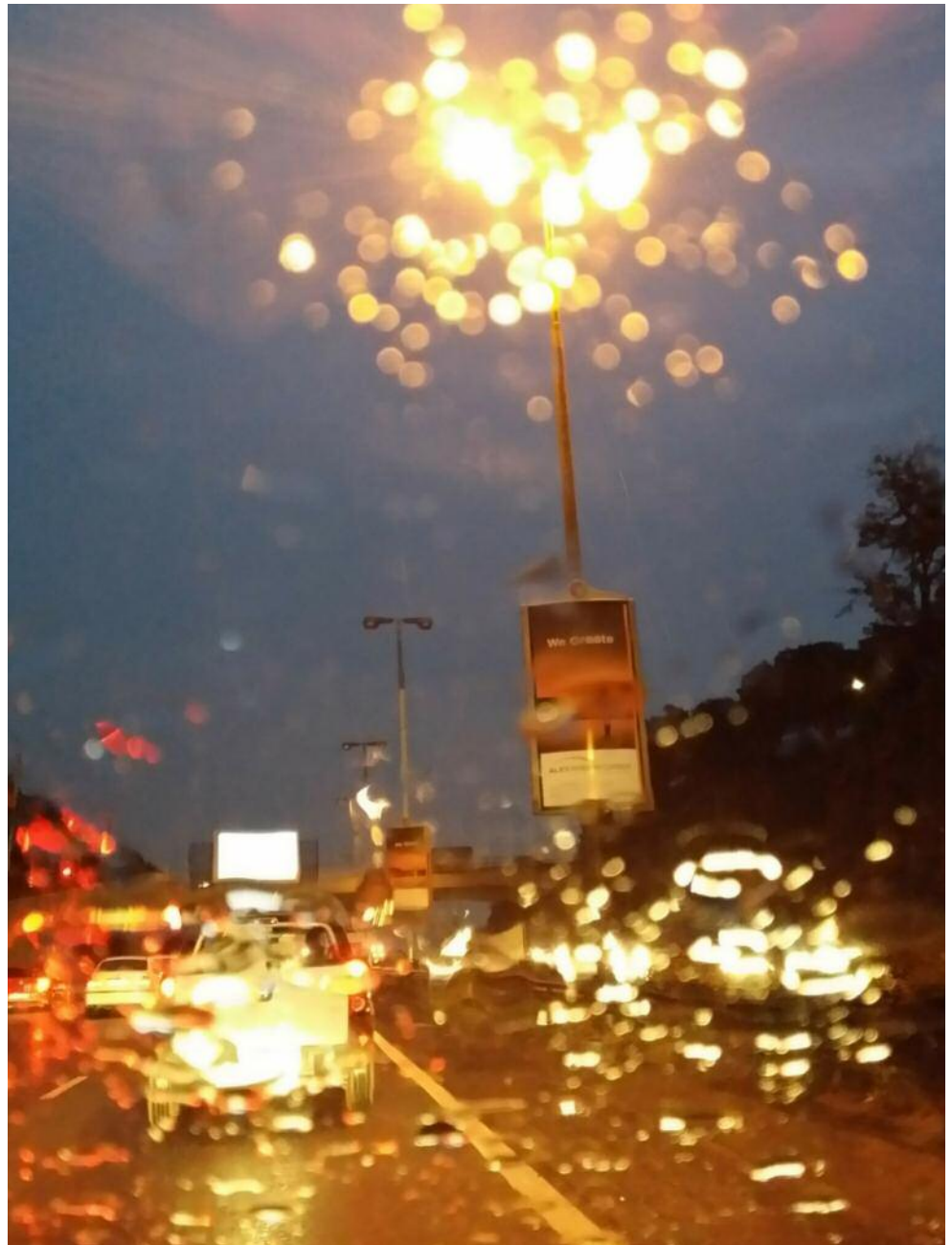
Table 1: Typical Low-Beam Headlight detection distance vs. clothing colour for pedestrian on right side of roadway.



- The safety reflector, a highly reflective strip that could be applied to clothing, was developed in Finland in the 1960s. Reflectors are believed to increase pedestrian visibility for a driver from 25 metres to 140 metres - at 50 km/h vehicle speed they could provide an additional 8.3 seconds of time for a driver to respond to a pedestrian hazard.
- In Finland, it is the law that walkers wear reflective items in the dark and every child going to school must wear three reflective items on their clothes and backpack. In Scandinavian countries, it is acceptable for people to wear reflective clothing. As a result, Scandinavia has the lowest incidence of pedestrian accidents in the western hemisphere.
- A similar program for school children in Great Britain reduced child pedestrian deaths by 51%.

Rain on a Windshield Obscures Vision

- On a windshield, raindrops do not result in a film of water but instead behave like small moving beads of water whose properties will depend on the type of shape of windshield glass, speed of the wipers, and the speed that the vehicle is travelling.
- Raindrops will disturb a driver's visual performance by reducing the sharpness of vision, resulting in an increase to the brain's workload.
- Reduced visibility and detection distance when raining is even greater under conditions of low light, lower speed of wipers, and smaller raindrops.
- The use of wipers in the rain reduces the distance at which a driver could detect a pedestrian by about 20%, and a reduction



of 45-68% in heavy rain. Example: a driver travelling 60 km/h could normally detect a light gray-clothed pedestrian at 59 metres (3.54 seconds) away in clear conditions and in heavy rain, initial detection of that pedestrian could be reduced down to as close as only 19 metres (1.14 seconds) away. Since an average driver will require 1.9 seconds to perceive and respond to a night-time pedestrian hazard directly

ahead, it would be impossible under this scenario for a driver to respond in time.

Tinted Windshields Reduces Detection Distance

- The Canadian federal Motor Vehicle Safety Act regulates that factory tinting of a windshield has to allow a minimum of 70% of light to pass through the glass. While no province allows one to put aftermarket tinting on windshields, the fines vary from \$100 to \$600. Quebec and Manitoba require a minimum of 70% light transmission and in Manitoba it's 50%. Ontario and Newfoundland subjectively require drivers to be able to see other vehicles and pedestrians.

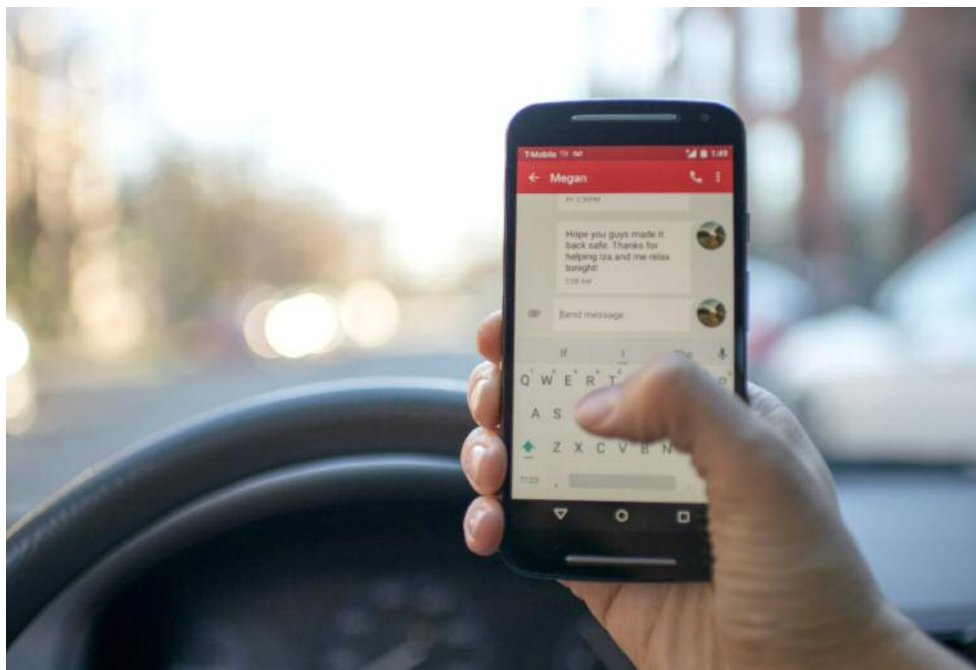
- A 70% tint would equate to a 30% transmissivity. For all tints greater than 30%, the recognition distance decreased by one-third. As an example, a motorcyclist wearing a 75% tint sunglasses (transmissivity of 25%) would recognize a dark object or pedestrian 25% later.

Drivers Take Longer to Respond to Hazards When Texting

The epidemic of driver texting while driving has been well profiled in the media. The exact effect of this behaviour on driver performance hasn't been widely discussed but it is worth noting.

- The U.S. National Safety Council estimates that 1 out of every 4





accidents in the U.S. is caused by texting and driving. In a 2018 survey of 1,400 U.S. drivers, 41% admitted to reading texts while in moving traffic, 11% admitted to have texted while in moving traffic, 8% admitted to watching YouTube/Netflix videos while behind the wheel, and 18% admitted to checking social media while behind the wheel.

and respond to a hazard was doubled and drivers were 11+ times more likely to miss a flashing light while they were texting.

- Perception-response time is defined as the time required for a driver to detect, identify, decide upon a response, and physically initiate a response (i.e. steering or braking) to a hazard.
- Perception-response time of a driver detecting a pedestrian hazard is affected by factors including the setting (intersection or mid-block), available lighting, whether the pedestrian was seen to be stationary beforehand, and the darkness of the pedestrian's clothing.
- A study of 42 drivers in Texas indicated that while reading or texting, the time taken to perceive

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Reduce the Odds of Colliding with a Pedestrian at Nighttime in the Rain

As a driver, you cannot control the actions or the clothing worn by a pedestrian, but you can act to ensure you have the best chance of detecting a pedestrian through attention to your vehicle and minimizing distraction.

Your Wipers

- Clean your blades with vinegar every so often to reduce buildup.
- Replace worn wiper blades that leave sections of your windshield unclean or smeared.
- Consider windshield-coating products that can increase the glass' surface tension so water can easily bead and fall from the windshield, further improving visibility.

Lighting Distraction

- Stay off your phone
 - Focusing on one cellphone will alters your focal length that has to then be adjusted when you refocus on the road.
 - Your contrast sensitivity is adjusted by looking at a bright screen, reducing your ability to detect low-contrast pedestrians on a darkened roadway.
 - Your attention is diverted reducing the amount of time you are scanning for pedestrians, doubling your reaction time and decreases your chance of detecting a pedestrian.
- Reduce interior/dash lighting
 - Your eyes will adjust their sensitivity to see low levels of contrast based on ambient light levels. Reducing levels of the vehicle interior and the dashboard can enhance your ability to see darkly-clothed pedestrians.



Conclusion

Dark and rainy mornings and nights increase the odds of a pedestrian collision. It's the rain, your wipers, reflections off the road, your eye's ability to detect contrast in low light, a pedestrian's clothing, and distraction from cellphones that factor into these collisions. Drivers need to consider these factors in order to keep the road safe for pedestrians and reduce the chances of a collision.

Be a safe driver and be extra attentive on those rainy roads.

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MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
SEPTEMBER	1	2	3	4
7	8	9	10	11
14	15	16	17	18
21 Kitchener-Waterloo Chapter, Kick Off Lunch and Learn	22 Kitchener-Waterloo Chapter, Kick Off Lunch and Learn	23 Kitchener-Waterloo Chapter, Kick Off Lunch and Learn	24 Kitchener-Waterloo Chapter, Kick Off Lunch and Learn	25
28	29	30	October 1, 2020 Georgian Bay Chapter, Webinar by Cause and Origin 10 am to 11 am	

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Get to know your Chapter

OIAA Georgian Bay Chapter

Well, the world has certainly changed since our last newsletter in March, with the COVID-19 Pandemic – the world as we knew it no longer exists; a “new normal” has taken hold; and no one knows how long this will last or if this “new normal” is now permanent.

The Pandemic has taken its toll on the physical health and wellbeing of everyone in the world; and the economies of all countries have taken a severe hit, which affects individuals and businesses alike, including our local insurance community. “Stay-at-home” orders caused businesses to close their doors and threw people out of work, but the economy is slowly starting to reopen with the hopes of returning to some semblance of normal. Unfortunately, too many people are not heeding the advice of health professionals and are not taking this seriously, which will undermine all efforts to recover and return to what we once had. I am hopeful the world will wake up and take heed, and stop the dreaded second wave which is looming on the horizon.

The majority of essential businesses who continue to operate, are operating in a work-from-home environment, which has placed additional stresses upon employees and their families. Should there be any opportunity for you to engage in mental healthcare projects or education, I encourage you to do so; social isolation is one of the key contributors right now to

mental health breakdown, and we all need good mental health to carry on.

But all is not doom and gloom – out of the ashes of this Pandemic, we see the support for our Front line Workers and other essential service workers, and work to ensure their safety so the rest of us can survive; the sharing of videos to lift the spirits of all who watch; the vehicle parades to wish those a Happy Birthday or Happy Anniversary; and so many instances of kindness and generosity throughout our Country. I am thankful to be Canadian!

The Pandemic has had an unfortunate impact on our Chapter for the remainder of 2020. The June Wrap-Up Social Event has been cancelled as has the July Golf Tournament. We are keenly watching how the pandemic progresses so we can decide if and when we can resume our meetings and social events for the 2020-2021 term. We will keep you apprised as to developments with e-blasts and our Fall/September newsletter.

I wish you and yours good health and security as we work our way through this unprecedented time, and hope to see all of you soon.

Teresa Mitchell

President

Georgian Bay Chapter

Georgian Bay Chapter Bottle Drive







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Selection is based on financial need, contribution to school, community life and/or other meaningful pursuits, major accomplishments and strong indication of academic promise. Eligible applicants will be a child or grandchild of an active OIAA member, who has been a member in good standing for a year and is a current member in good standing for 2020-2021.

The deadline to apply is October 2, 2020 at 5:00 pm.
Visit our website www.oiaa.com for further details.

Cannabis One Year Later: Where Are We?





"Cannabis One Year Later: Where Are We?" is an informative seminar presented at the Georgian Bay Chapter's monthly meeting on October 3, 2019. The following summary is compiled by Teresa Mitchell, President of the Georgian Bay Chapter.

Cannabis in the Workplace

*Presented by Jeff Belesky and Ted Chatterton, Carroll Heyd Chown LLP
Barrie*

- No lawsuits in the first year; even if started, most likely will not go to trial
- Since 2000, prescriptions were available for medical cannabis
- Cannabis consumption is treated the same way as alcohol
- The type / level of cannabis consumed is the main concern for employers:
 - THC (tetrahydrocannabinol) - is the "fun/recreational" stuff
 - CBD (cannabidiol) - is the medical side of cannabis
- Epidiolex is CBD-based and originally developed for children who are resistant to treatment; causes drowsiness
- Interactions with other medications can affect the potency of cannabis
- Vaping vs. edibles; vaping provides instant reaction, while edibles provide gradual reaction
- Cannabis consumption of any type can affect workplace activities and safety - employees have a common law duty to perform their work duties safely, while employers have a common law duty to provide a safe workplace
- Employees cannot be impaired at work; however employers have a duty to provide workplace accommodation for medical cannabis under the Ontario Human Rights Act but not if the accommodation places undue hardship upon the employer
- Ontario Health & Safety Act, s25 Workplace Safety defines "meaningful impairment in capacity to carry out job duties" and employers will rely upon this
- Legal Cases to Consider:
 - Skinner v. Board of Trustees of the Canadian Elevator Industry Welfare Trust Fund (Nova Scotia), Human Rights Tribunal - statutory





- duty to report impairment
- French v. Selkin Logging (BC) - alleged discrimination for using medical cannabis on-the-job
- Calgary v. CUPE 2015 (AB) - accommodating employees who use medical cannabis
- Mobnother v. Gymnastics Club 2016 (BC), Human Rights Tribunal
- WSIB Consideration:
 - Cannabis for Medical Purposes policy, #17-01-10, effective March 1, 2019; applies to all purchases of medical cannabis or vapourizers for medical cannabis made on or after March 1, 2019 for all accidents

Healthcare Side of Cannabis

Presented by Keith Hanson, LifeMark Assessments

- Edibles are supposed to be legal by October 2019
- 47% of population has consumed cannabis at some point in their lifetime; 21% male, 12% female
- In the last year, 4.9 million Canadians have reported using cannabis; with a 9% addiction rate
- Clinical Trials:
 - Nabilone / Cesamet
 - Nabiximols / Sativex
 - Epidiolex - early epilepsy in children only
 - 79 trials; 4 low risk bias
- 2018 Review of Systematic Review for Medical Cannabis; used or prescribed for pain, nausea, vomiting, or spasticity
- Emerging evidence of CBD; not enough evidence currently to show that it is helpful; "helpful" is subjective to the individual
- Cannabis Safety - dependence rate is low; age of user; earlier use
- Dependency Rates
 - Tobacco 32%
 - Heroin 23%
 - Alcohol 15%
 - Cannabis 9%
 - Caffeine 9%
 - Daily Use of Cannabis - 15-50% dependency rate
- WSIB / WSIAT concerns - patients not procuring medical cannabis from proper sources; there is a simplified guideline for prescribing medical cannabinoids in primary care
- Concerns for long-term use - not enough evidence to determine effects in long-term use; factors can include motivation, mental health, cognition, and judgment
- Need to manage risk appropriately; utilize licensed producers
- Handouts provided:
 - 10 Ways to Reduce Risk When Using
 - Factsheet, Health Effects of Cannabis, Health Canada

Underwriting Effects

Presented by Paul Hayes, Wawanesa Mutual Insurance (Specialty Lines)

- Commercial Cannabis very new
- Wawanesa has an 8 page guideline to ensure Risk meets guidelines to be underwritten for Cannabis, specifically Processing, Cultivation, and Retail
- Due to unknown future risks from cannabis exposure and long-tail nature of it, not providing liability coverage; only providing property coverage
- Key Points to Underwriting
 - High theft exposure risk; extensive security measures must be in place with no exceptions
 - Fire - proper sprinkler and fire suppression systems must be in place
 - Mold - need proper ventilation
 - Dangerous Gases - carbon dioxide, 10% or more causes unconsciousness
 - Odour
 - Security - monitored alarm system
 - Crime Prevention Manual must be in place
- Cannabis is the toughest commercial risk to underwrite as it is so new, with considerable variables



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- Greenhouse vs. Field Grow - both have the same underwriting risks
- Only 4 or 5 insurers are underwriting Cannabis in Ontario
- Claims Handling:
 - Has agreement in place with adjusting firm
 - Provide details to the adjuster
 - Has an assigned in-house claims rep to coordinate with the adjuster and provide direction
- To date, have underwritten 759 commercial policies

Cannabis in Policing

Presented by Detective Constable Bill Pelan, Barrie Police Service

- Became legal In October 2018 following Royal Assent In June 2018
- An Individual can possess 30 grams of cannabis for personal use; and 180 grams for medical use
- 1 Joint = 1 gram
- Plants in residence - 4 plants maximum for personal use; no limit on dried cannabis
- Can make own edibles but not legal yet for sale
- AGCO (Alcohol & Gaming Commission of Ontario) regulates the stores
- Areas of concern for Police:
 - Legal grows overgrowing
 - Multiple licenses for one location; 1 medical license allows 438 plants; maximum 4 licenses at any one property
 - No police oversight In the licensing process
- Sales were \$1 billion In the year following legalization through regulates stores; but \$700 to \$800 billion in the illegal/unlicensed market
- \$15,000 per day is the average in sales through the licensed store; online business is more
- Pop-Up online retailers currently account for 400-500 of the vendors where licensing is an issue
- What to look for In Residential Grows:
 - Extra hydro supply / usage
 - Additional venting
 - Greenhouses
 - Watering supplies
 - Video cameras outside
 - Guard dogs
 - Yards not maintained
- Local Health Units are responsible to enforce smoking and vaping regulations regarding cannabis, under the Smoke Free Ontario Act, including vape shops
- Handout provided addressing:
 - Using Cannabis Safely
 - Using Cannabis and Driving is illegal and dangerous
 - There will be zero tolerance for young, novice and commercial drivers



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Psychological Testing: How Confident Are We In Confidence Intervals? (Part 1)





Insurance Adjustors expect that all evaluation reports are written with integrity, where the practitioner uses best practices in the assessment process and employs sound methodology and logic in answering the referral questions. Furthermore, there is an expectation that the practitioner will be reasonably confident in those conclusions.

*By Dr. Jonathan Evan Siegel, Psychologist
and Chendur Gandhidoss, Statistician*

COMPONENTS OF A PSYCHOLOGICAL ASSESSMENT

Within the context of a psychological assessment, where the referral questions are focused on a determination of disability, or the requirement for claimant treatment, a psychologist will proceed with a standardized process that includes at least three components:

- 1) comprehensive interview that addresses both pre-accident and post-accident functioning;
- 2) review of the medical and rehabilitation file to review background information and address consistencies and inconsistencies with other data;
- 3) psychological testing, including validity measures, to gather further data to corroborate or inval-

idate information from the interview.

Problem: It is critical to note that since there is no psychological test that is perfect, there will always be some error component that a psychologist must take into consideration when reviewing the data.

Path towards solution: It is this error component that sets the boundaries and limits on the confidence that a psychologist places on psychological test results.

THE LIMITS OF CONFIDENCE

Renes Descartes was a French philosopher who wrote the following in his book *Discourse On the Method*, in 1637: "I think, therefore



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I am.” Descartes discovered that he could not fully trust, with 100% confidence, his five senses of sight, smell, taste, touch, and hearing.

Descartes said: “Accordingly, seeing that our senses sometimes deceive us, I was willing to suppose that there existed nothing really such as they presented to us; And because some men err in reasoning, and fall into Paralogisms, even on the simplest matters of Geometry, I, convinced that I was as open to error as any other, rejected as false all the reasonings I had hitherto taken for Demonstrations”.

Descartes concluded that the only thing he could not doubt was the existence of his own mind. As Descartes explained, “we cannot doubt of our existence while we doubt...”. Descartes reasoned that if we are able to question our own existence then we must exist. You think, therefore you are.

While we do not doubt our own existence, it is important to recog-

nize that while our own experience is our own truth, others have their own lived experience, and there may be many interpretations given to the facts in front of us. It is precisely because humans have different perspectives, different points of view, and different interpretations that disputes can arise, and standards of proof are required for resolving those disputes.

For example, the standard of proof differs between civil and criminal matters.

Case law has established that in civil matters, the standard of proof is the ‘balance of probabilities’. This is a lesser standard than the proof required in relation to criminal matters, where the standard proof is ‘beyond a reasonable doubt’. The difference between civil law and criminal law is the quality of evidence required which, in turn, is dependent on the degree of confidence one has in that evidence.

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DEGREE OF CONFIDENCE

Degree of confidence has two components.

The first component relates to accuracy: is the decision correct? This is the fundamental question that we would like to answer. However, the arbitrator, jury, or judge will never be able to have all the information that is possible to have related to the case. They can have a very significant amount of information (that is why trials can last for weeks), but the key point is that there will be always be a chance that some information is still missing, hidden, or inaccessible.

The second component relates to the generalizability of the process of arriving at the decisions. For example, let's say that an arbitrator has to decide whether an individual is psy-

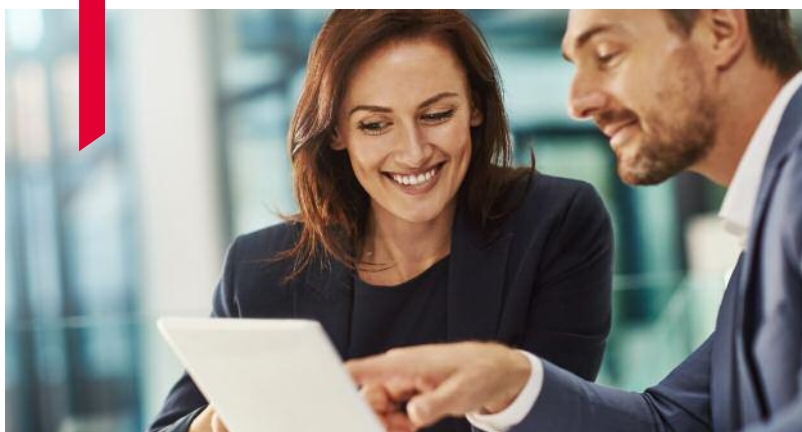
chologically disabled from returning to work, and part of the testimony from the psychologist involves results of validity testing, where doubt is raised regarding a claimant's readiness to provide full effort relative to actual abilities. The distinction of 'generalizability' refers to whether the test that the psychologist used was, in fact, applicable to members from different sub-groups of the population. For example, if the test has been successfully been used on members from a particular ethnicity, then to what extent can the test be used with other ethnicities to achieve a similarly high level of confidence?

Degree of confidence can be conceptualized in mathematical terms as a range from 0% confidence to 100% confidence. Notice that in both cases of civil law and criminal law matters, it is near impossible to achieve 100% confidence in the decisions made. The reason we say 'near' impossible as opposed to 'impossible' is because even to express this statement we should not assume that we can be 100% confident.

For any degree of confidence we might have, we can never be 100% sure that we made the correct decision. For this reason, whenever we estimate any test scores, we cannot rely on that single score as reflective of the subject's ability or disability. Hence, we need a range of scores which we refer to as the confidence interval of the subject's test scores. Thus, there is some interval to that confidence, which brings us to the science of statistics.

WHAT IS THE FUNDAMENTAL IDEA OF STATISTICS?

The foundation of statistics is that there is always an error component, and while this error component can be large or very small, it always exists. This means that a psychologist



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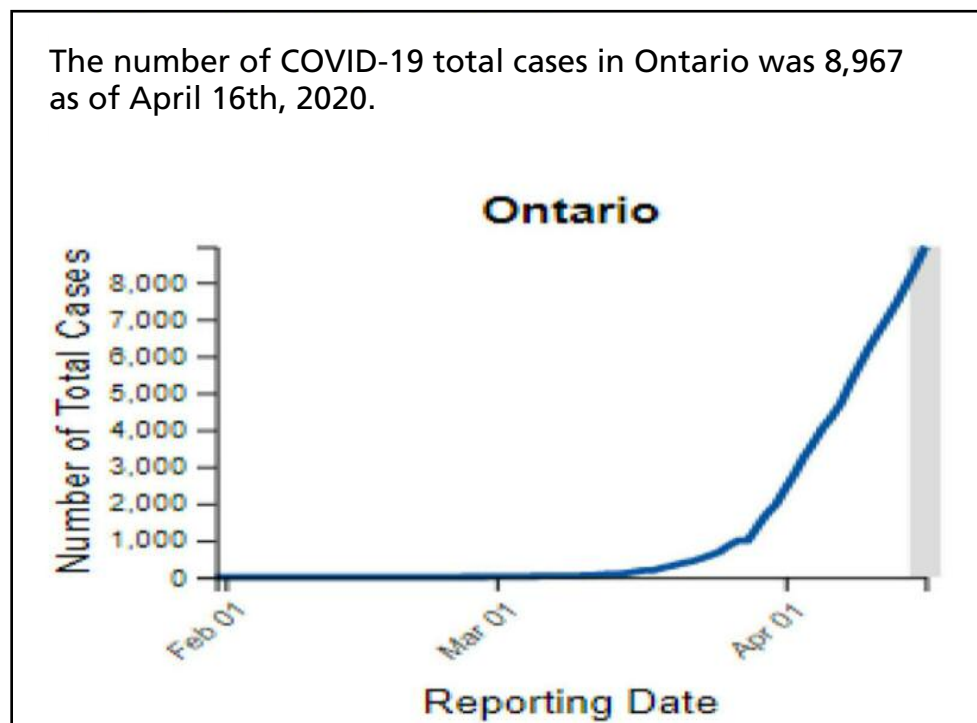
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Figure 1. Incidence of covid-19 spread in Ontario over time (Government of Canada, 2020)



must always recognize that there are confidence intervals when reviewing results of psychological testing.

EXAMPLE FROM COVID-19 (LIMITS OF CONFIDENCE)

While the focus of this article is on psychological testing, given the significance of a current worldwide pandemic due to Covid-19, the topic of confidence intervals can be introduced by examining a graph of the incidence and prevalence of the spread of the virus in Ontario, as of April 16, 2020. As can be seen from Figure 1., there were hardly any identifiable cases of Covid-19 in the months preceding April 1. However, the curve rises exponentially as each day passes. In an article published in Maclean's magazine on April 15, 2020, Ms. Patricia Treble referenced Dr. Theresa Tam, (Canada's Chief Public Health Officer), who noted that as of late March, 2020, the cumulative total number of cases of Covid-19 doubled every three days

(Treble, 2020). As of April 16, 2020, the total cumulative cases are doubling approximately every 10 days (Treble, 2020). It is important to note that the doubling times for Covid-19 cases provided in this article and others are approximations, which do not indicate a 100% confidence in the values of these estimates.

This can be seen from the data provided by many public health professionals, including Dr. Tam, who do not reference 100% confidence regarding when the curve will flatten. That is why at the time of this article being written (April 16, 2020), there is no clear indication of when social distancing restrictions will be lifted, or when many Canadians will be able to return to work.

While scientists have information about the number of deaths due to Covid-19, there is still a lot of other information that is unavailable. For example, we do not know the exact number of individuals who are

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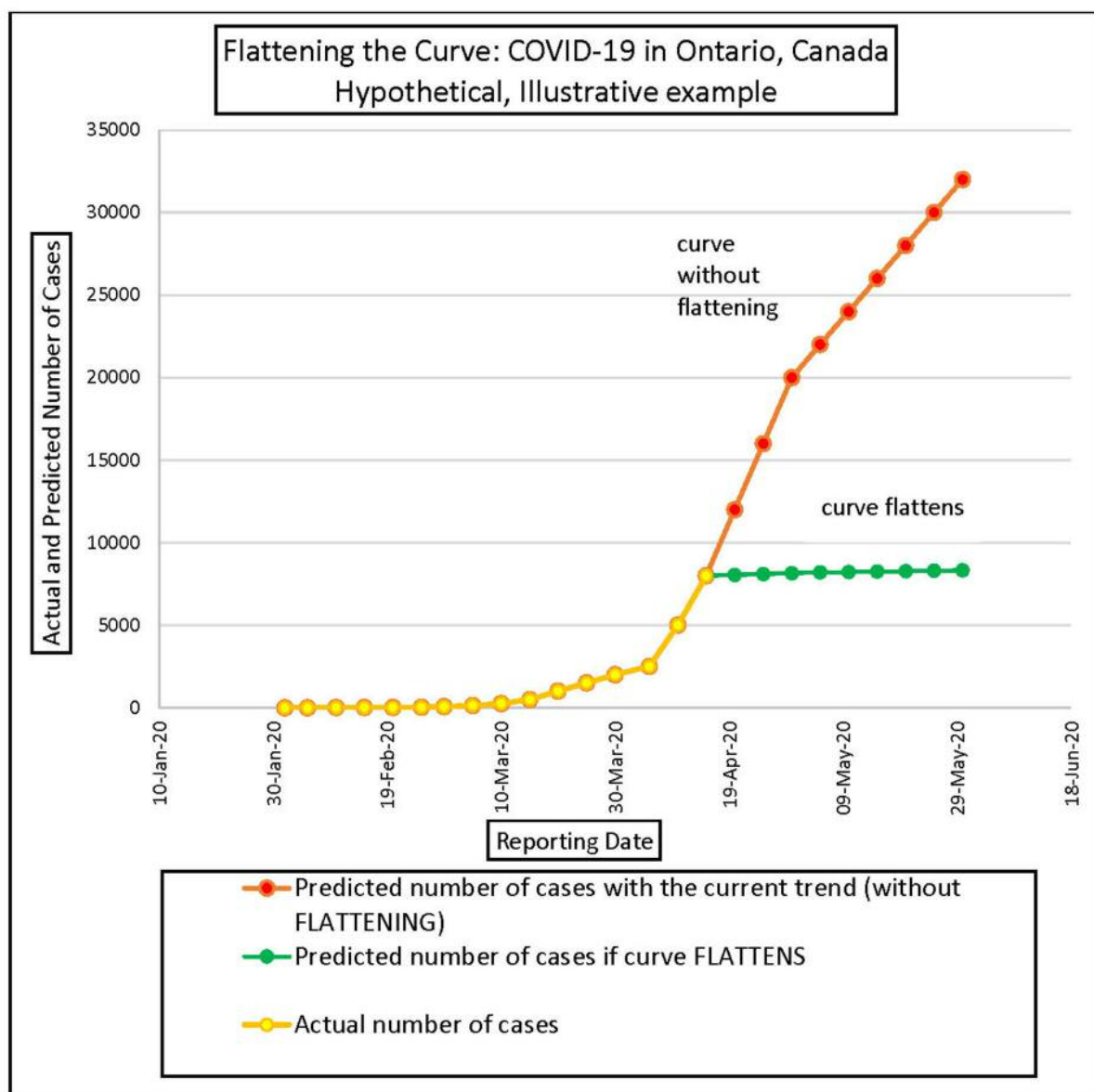
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infected with Covid-19. This is due to the uncertainty that out of those individuals who are asymptomatic, we do not know how many of these individuals are actually positive for the Covid-19 disease. Even among those individuals who are symptomatic, how many of these individuals are actually positive for the Covid-19 disease? And what about the false positive and false negative rates of the Covid-19 test procedures? How many people have developed immunity? Why is it that some individuals who have been declared “fully recovered” from the

virus have tested positive a second time after leaving quarantine? These questions, among many others, reveal that there is an incompleteness of information which induces uncertainty in the decisions that are being made with respect to predicting the spread of Covid-19. This is an illustrative example that shows the limits of confidence.

As a result of lacking 100% of the information, it is impossible to know exactly when the curve will flatten (refer to Figure 2). When you hear statements and predictions being given by physicians, scientists, and

Figure 2.
Covid-19 predictions



public health professionals, remember that there is always an underlying, if unstated assumption, that there are degrees or intervals of confidence.

LIMITS OF CONFIDENCE: A STATISTICAL PERSPECTIVE

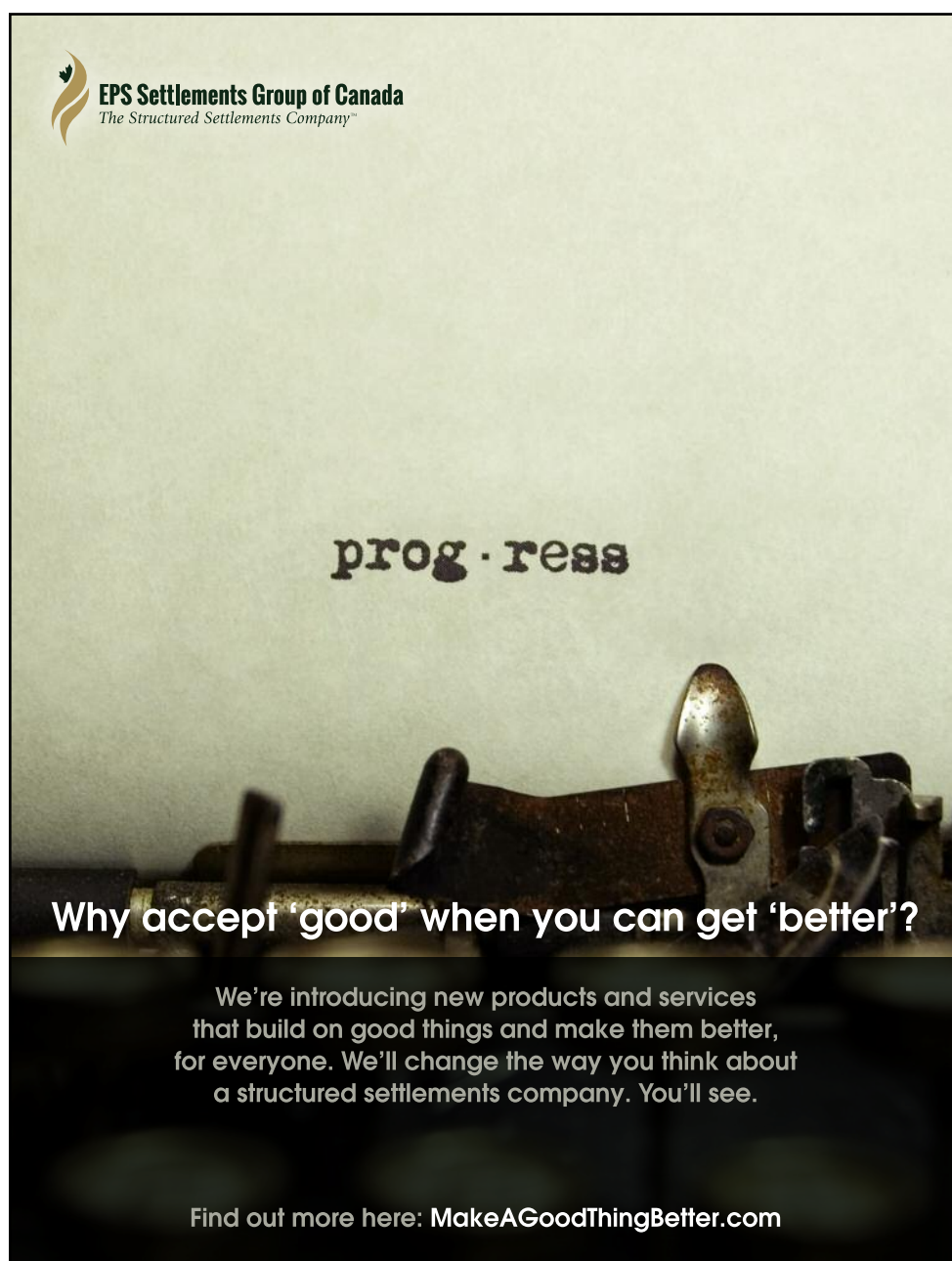
Characteristics of populations are called parameters and the goal of statistics is to estimate population parameters. For example, we do not, with 100% certainty, know the exact average IQ score of all Canadian citizens. In order to obtain the exact average IQ score of all Canadians we would have to administer the IQ tests to every single Canadian and obtain their scores. But we can see that this is an impossible task for practical purposes.

So instead, what we do, is to take a random and representative sample from the population of interest. For example, if we want to get an estimate of the average IQ scores for all Canadians between the ages of 18 and 29, we would take a random and representative sample of individuals within that age group from all Canadian provinces and territories. The larger the sample, the greater the likelihood that our sample estimate will be representative of the true population parameter value.

To use an illustrative example from the field of psychology, and psychological testing, what is often considered the 'gold' standard for IQ testing is the Wechsler Adult Intelligence Scale IV (WAIS-IV). This test was validated using a stratified sample of 2200 people in the United States from the ages of 16 – 90. An extension of the WAIS IV standardization has been conducted in Canada with 688 individuals. This means that whenever a person is tested using the WAIS-IV, this person's score is interpreted within the context of the scores obtained from the above sam-

ple (which is known as the standardization sample).

Note, however, that when we factor in both the USA sample (2200 individuals) and the Canadian sample (688 individuals), it is still just that: only one sample. While this sample provides our best estimate of the true population scores, it is necessary to recognize that it is only when we take a very large number of samples that our sample estimates become



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more accurate representations of the population parameters.

However, in most cases, given the significant time, energy, and costs associated with conducting the data collection for repeated sampling, it is practically impossible to gather more than one sample of data for the same study. As a result, researchers base their best estimates of the unknown population parameters on a good (one that is representative of the population) sample. To review, a good sample is one which provides us with an accurate and reliable estimate of the population parameter. For example, in the context of the WAIS-IV, researchers use the single standardization sample to benchmark the IQ scores for individuals that a psychologist might be testing. However, there is no guarantee that the sample we have obtained is, in

fact, very representative of the population, and hence reliable. This brings us to the necessity of creating confidence intervals.

STEPS TO CREATING A CONFIDENCE INTERVAL

Step 1:

Identify the parameter of interest that you would like to estimate for the population:

For example, population average (this is also called the population mean).

For example, the population mean IQ scores of all Canadians between the ages 18-29.

Step 2:

Choose the most suitable point estimate for the population parameter:

For example, sample mean (this is



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also called the sample average).

For example, the sample mean IQ scores of the random sample of individuals between the ages 18-29 for the WAIS-IV standardization study.

Step 3:

Derive the sampling distribution for the chosen point estimate: In most cases, this distribution is a **NORMAL distribution**. (see Figure 3).

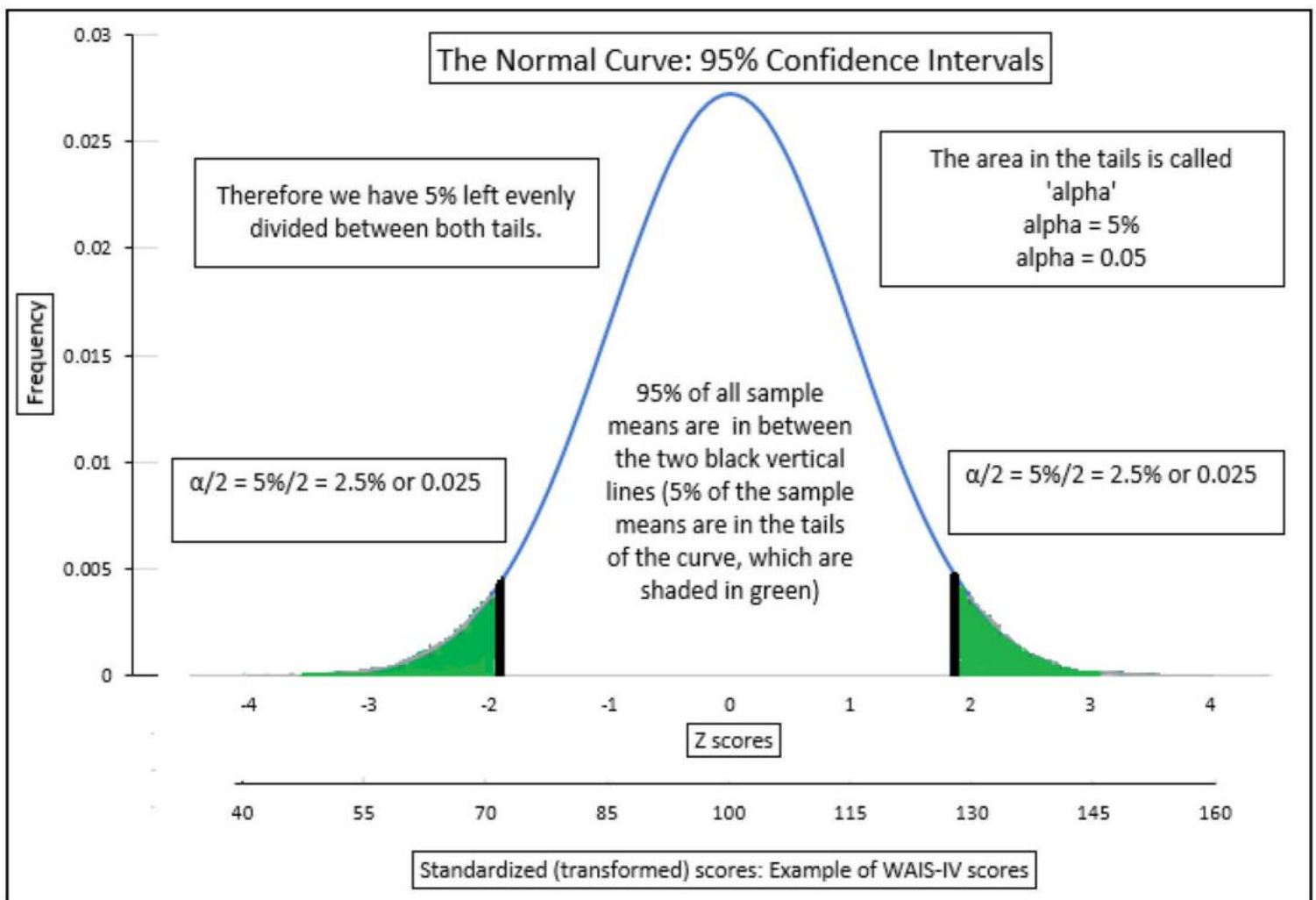
For the normal curve when mean= μ ; variance= σ^2 , the formula is:

$$y = \frac{1}{\sqrt{2\pi\sigma^2}} e^{-\frac{(x-\mu)^2}{2\sigma^2}}$$

Of note, there is an elegance to this formula- despite its complicated form...precisely because the normal curve can be generated for each value of x by knowing only its mean (μ) and standard deviation (σ) with the constants e and π . Mathematically, the standard deviation is the square root of the average sum of squared deviations of the data. Thus, standard deviation can be conceptualized as the average spread (dispersion) of scores from the mean.

The average sum of squared deviations is also called the variance. Therefore, the standard deviation is the square root of the variance.

Figure 3. The Normal curve: 95% Confidence Intervals



CHARACTERISTICS OF THE NORMAL CURVE

The 'Normal' curve is also known informally known as the 'Bell Curve' and formally as the 'Gaussian Curve' – on account of the 19th century mathematician, Karl Friedrich Gauss. With its central peak and gracefully sloping slides, this curve is considered by many statisticians as possibly the most important distribution curve in statistics since most of the distributions in statistics can fundamentally be related back to the normal curve. There are many examples of continuous data in both nature and in the field of psychology that displays this bell-shaped curve when the data are compiled and graphed. For example, the weights and heights of individuals within a certain age group or even across age groups will show a pattern that

approximates the normal curve. Similarly, IQ (Intelligent Quotient) scores will also yield a normal curve within age groups and across age groups. It is common to use the normal curve when establishing confidence intervals for psychological test scores.

Part II of this article will be in the next issue of WP.



Jonathan Evan Siegel earned his Bachelor's degree in physiological psychology from McGill University in 1978, both his Master's degree (1982) and Doctorate in counselling psychology (1986) from the University of Toronto. Dr. Siegel

specializes in both providing psychological assessments for individuals involved in accidents as well as addictions. He provides program evaluation using both descriptive and inferential statistics to measure the effectiveness of treatment programs.



Chendur Gandhidoss earned his Bachelor's degree in Quantitative and Mathematical Economics and Statistics at Carleton University in 2003, his Master's degree in Probability and Statistics at Carleton University, in 2016, and is currently a Ph.D. candidate in statistics.

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Final Report

Joe Cumming, Georgian Bay Delegate

I doubt Bryan Adams will write a song about the summer of 2020.

Last night I sat down and watched a live hockey game. Exhibition between the Leafs and the Habs preparing for the 2020 playoffs. Obviously the Leafs won without any issues, 2 shorthanded goals might I add. It was refreshing to watch a game that was not a rewind from the 80's or 90's. Toronto gave Montreal home ice advantage to which evidently did not help. The first period or so kind of reminded me of an outdoor winter classic game as there were no spectators in view. The seats were covered, lighting and displays surrounding the upper bowls and the camera work was strictly focused on the play. There was lots of buildup and pre-game discussion how this playoff will be so much different and in some aspects it certainly will. Once the play began and the players got into the game it was easy to enjoy. I can only hope by the time this *WP* is published the playoffs are still on and the Leafs are not golfing. What will it look like if Toronto wins the Stanley Cup this year? A virtual parade or perhaps mayhem of Florida...

Like every area, the Georgian Bay Chapter cancelled events such as our year-end wrap up and the golf tournament. The golf tournament is one of our Chapter's events where we can raise enough funds to give back to our local community. With golf being cancelled, the Chapter took another approach by having a bottle drive. Spear headed by our Vice President Greg Doerr with the help of Chapter secretary Kayla Guy, two teams were formed. After several days of responsible collecting the Georgian Bay Chapter was able to donate to Barrie, Midland and Orillia Food Banks. A positive outcome for these interesting times.

I hope everyone has been able to enjoy their summer!



Greg Doerr



Kayla Guy and team

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