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The **PARTNERSHIP** you expect.



VACORP

Public Safety: Exposures and Presumptions

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Administrator



Disclaimer

The information and materials herein are provided for general information purposes only and are not intended to constitute legal or other advice or opinions on any specific matters and are not intended to replace the advice of a qualified attorney.





VACORP

Members with Property & Casualty Coverage 2019-20

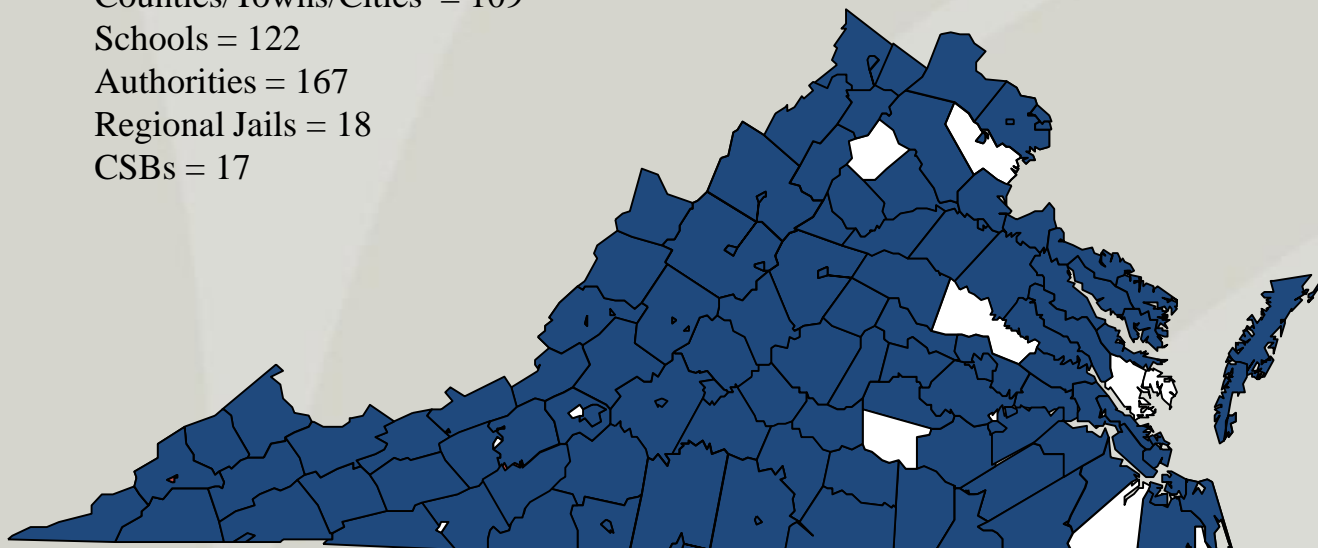
Counties/Towns/Cities = 109

Schools = 122

Authorities = 167

Regional Jails = 18

CSBs = 17



Total Members with P&C Coverage = 433



VACORP

Members with Workers' Compensation Coverage 2019-20

Counties/ Towns/Cities = 102

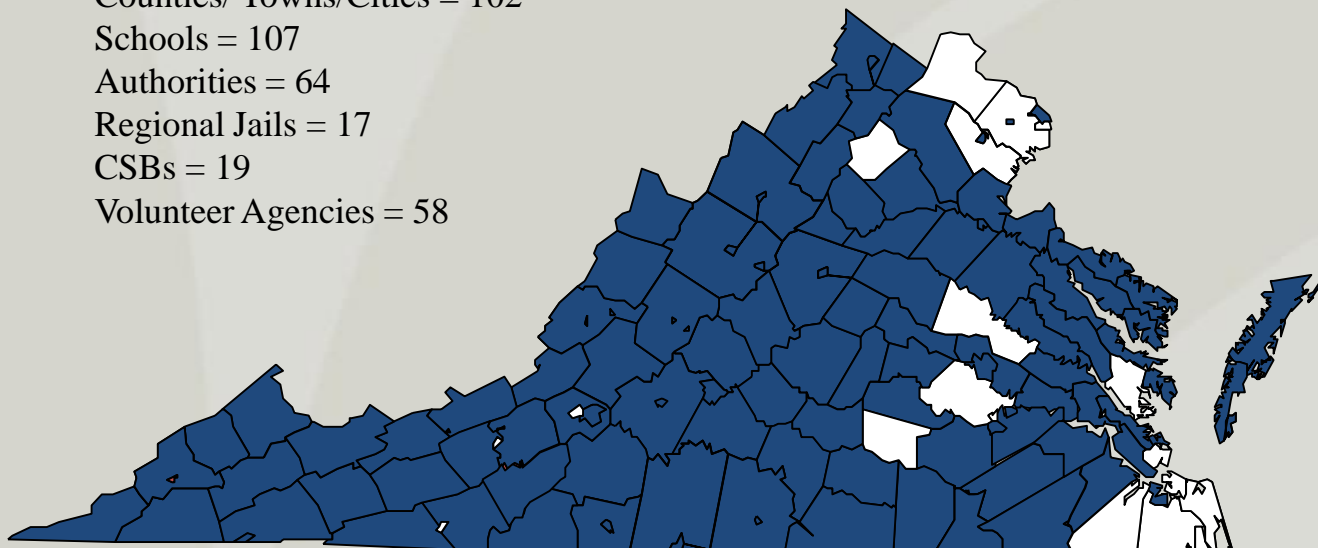
Schools = 107

Authorities = 64

Regional Jails = 17

CSBs = 19

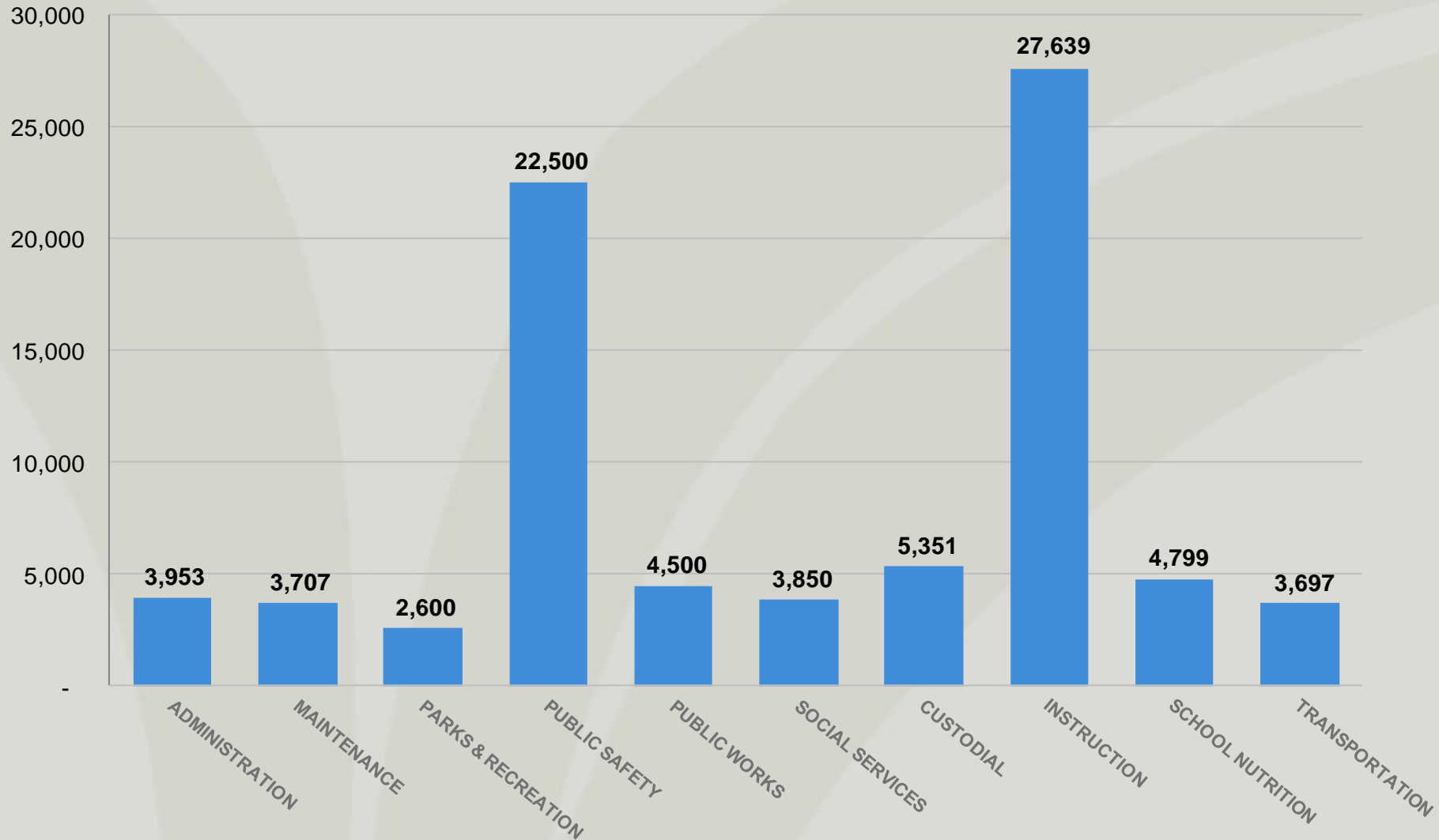
Volunteer Agencies = 58



Total Members with P&C Coverage = 367

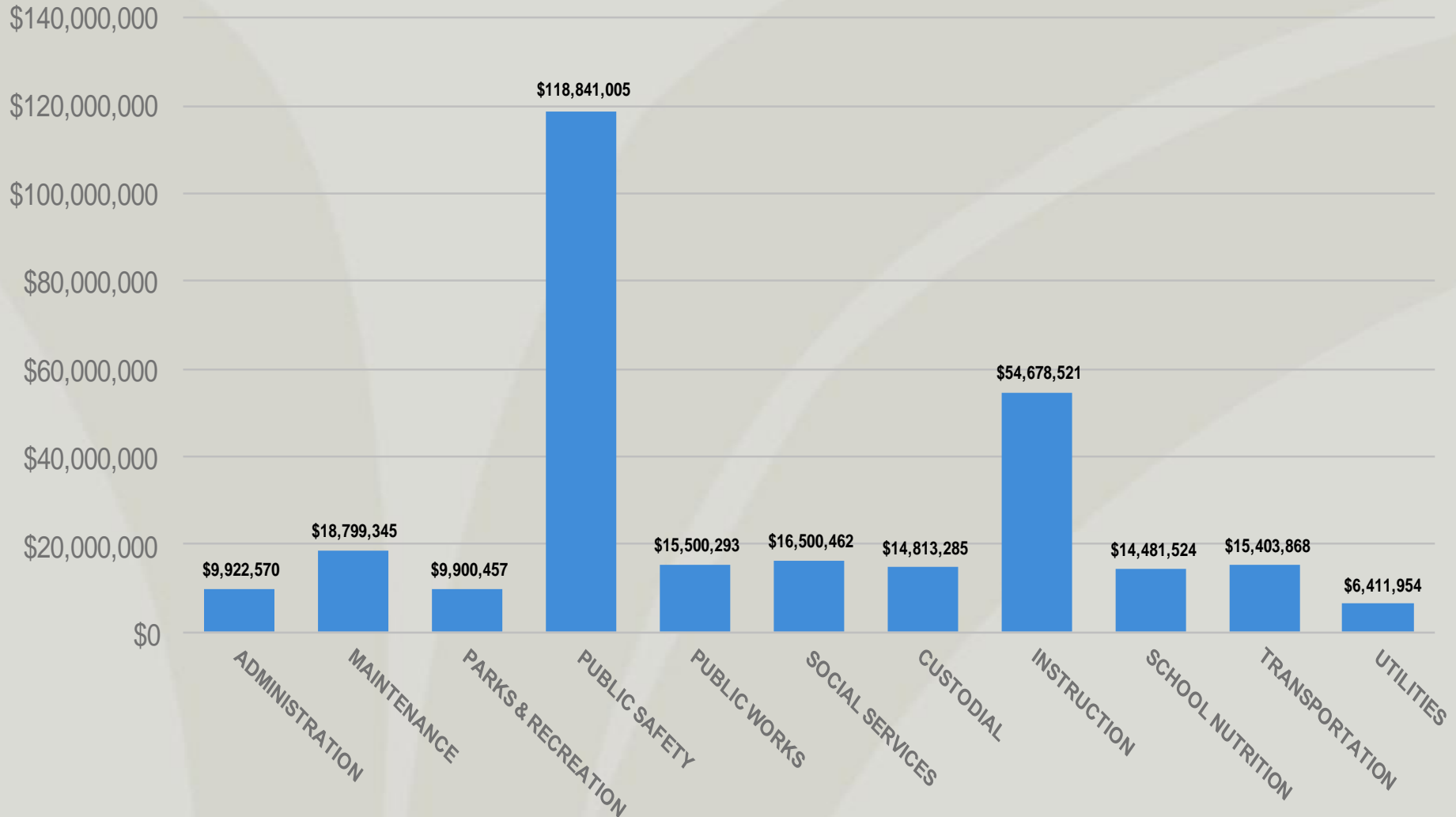
10 Year Workers' Compensation History

Frequency of Claims Handled by Department



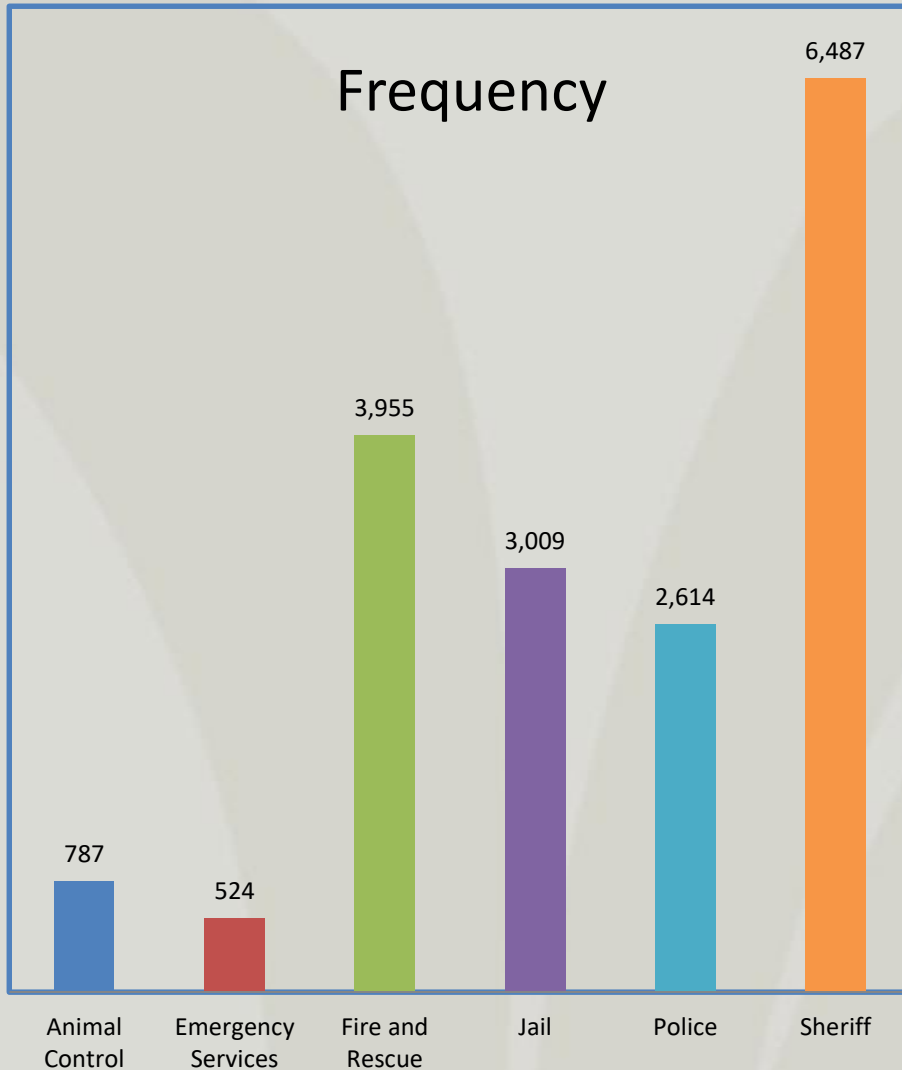
10 Year Workers' Compensation History

Severity of Claims Handled by Department

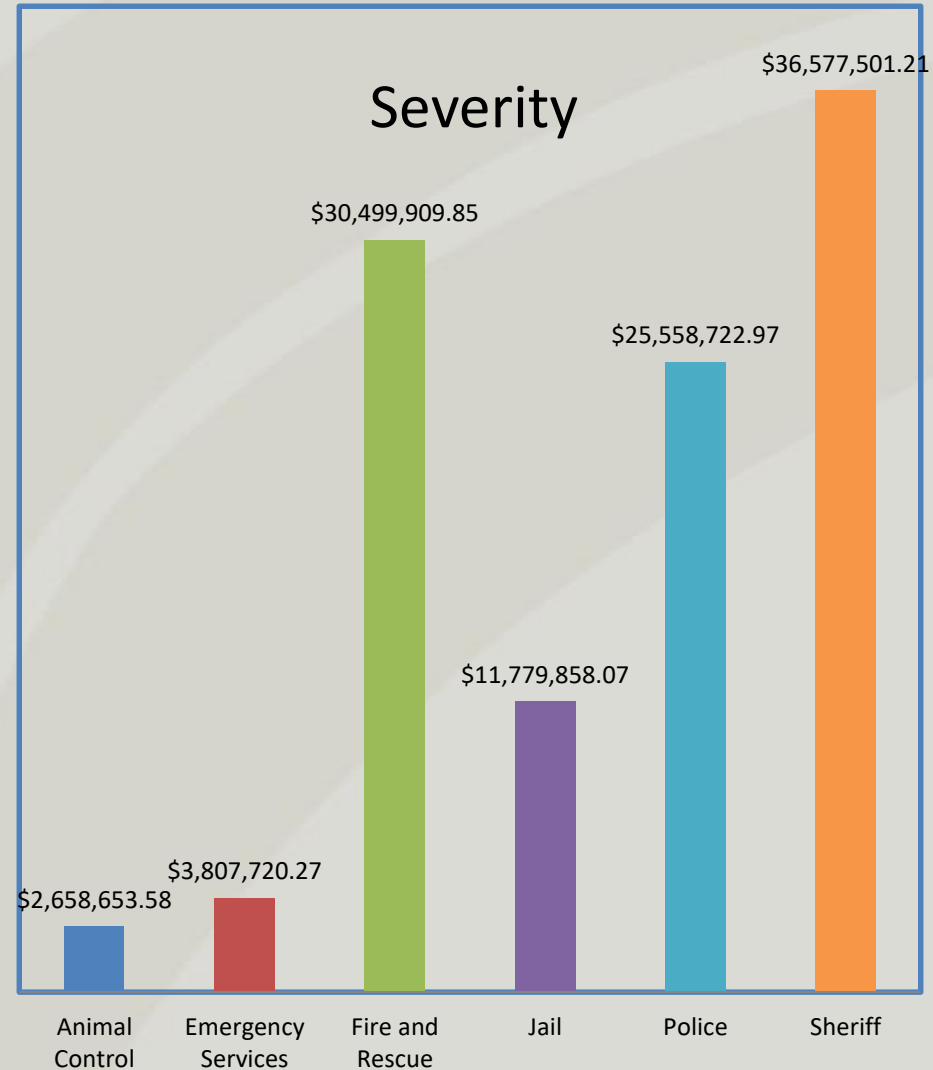


Public Safety Losses

Frequency



Severity



Public Safety Losses

Average Cost per Claim



- Average WC claim cost is **\$6,281.28**
- **6.98%** of claims result in lost time
- Average presumption claim is **\$62,768.44**

Public Safety and Presumptions



What is a Presumption?

- ✓ Certain diseases are assumed to be related to employment
- ✓ It is up to the opposing party to disprove (rebut) the presumption



VA First Responder Presumptions

- **Workers' Compensation:**
 - § 65.2-402. Presumption as to death or disability from respiratory disease, hypertension or heart disease, cancer.
 - § 65.2-402.1. Presumption as to death or disability from infectious disease.
- **Relief for Fire Fighters and Dependents:**
 - § 27-40.1. Presumption as to death or disability from respiratory diseases, hypertension or heart disease.
- **Line of Duty Act (LODA):**
 - § 9.1-400. Incorporated by reference the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, 65.2-402, and 65.2-402.1

Eligible Diseases

- ✓ Hypertension or Heart Disease
- ✓ Cancer
- ✓ Infectious Diseases
- ✓ Respiratory Diseases



Hypertension or Heart Disease

- ✓ firefighters, State Police, police departments, sheriffs and deputy sheriffs, DEM hazardous materials officers, city sergeant or deputy city sergeant of the City of Richmond, VA Marine Police, conservation police officers with enforcement division of the Department of Game and Inland Fisheries, Capitol Police, ABC Special Agents, Metropolitan Washington Airports Authority, Norfolk Airport Authority, Virginia Port Authority, and campus police
- ✓ diagnosed with hypertension or heart disease
- ✓ causing death or disability



Cancer

- ✓ firefighters, DEM hazardous materials officer, commercial vehicle enforcement officer or motor carrier safety trooper with the State Police, or full-time sworn member of the enforcement division of the DMV:
 - **that completed 12 years of continuous service;**
 - **had contact with a toxic substance in the line of duty; and**
 - **that such toxic substance caused or are suspected of causing the particular type of cancer from which the claimant suffers.**
- ✓ diagnosed with leukemia, pancreatic, prostate, rectal, throat, ovarian or breast cancer
- ✓ causing death or disability

Infectious Diseases

- ✓ firefighters, State Police, police departments, sheriffs and deputy sheriffs, DEM hazardous materials officers, city sergeants or deputy city sergeant of the City of Richmond, VA Marine Police, conservation police officers with enforcement division of the Department of Game and Inland Fisheries, Capitol Police, ABC Special Agents, Metropolitan Washington Airports Authority, Norfolk Airport Authority, **conservation officer of the Department of Conservation and Recreation**, Virginia Port Authority, and campus police
 - **with documented occupational exposure to blood or body fluids**
- ✓ diagnosed with hepatitis, meningococcal meningitis, tuberculosis or HIV
- ✓ causing death or disability

Respiratory Diseases

- ✓ firefighters or Department of Emergency Management hazardous materials officers
- ✓ diagnosed with respiratory diseases
- ✓ causing death or disability



2020 General Assembly Legislative Concerns

2019 SB 1030:

- ✓ **Adds cancers of the colon, brain, or testes** to the list of cancers that are presumed to be an occupational disease. The measure will become effective **if reenacted by the 2020 Session of the General Assembly**.
- ✓ **Potential for the addition of EMT and Correctional Officers to Heart Presumption**
- ✓ **Potential for the addition of PTSD added as a new presumption**

Public Safety Concerns

Major concerns

- ✓ **Speed of determinations – Most presumption claims take 6-12 months**
- ✓ **Toxic substances language for Cancer Presumption**
- ✓ **Preservation of Line of Duty Act Benefits**




Local Government Concerns

Major concerns

- ✓ **Cost of Expansion of Existing Presumptions**
- ✓ **Unknown of PTSD**
- ✓ **Reinsurance Contracts**
- ✓ **Impact on Line of Duty**

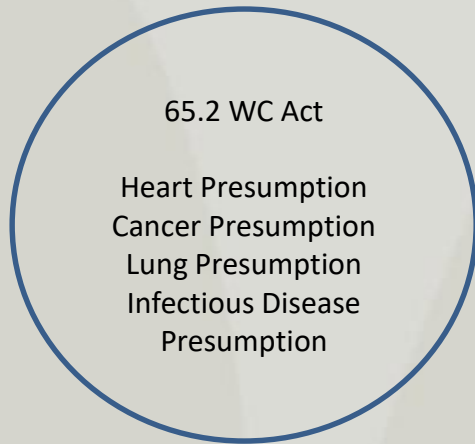


Cost Implications

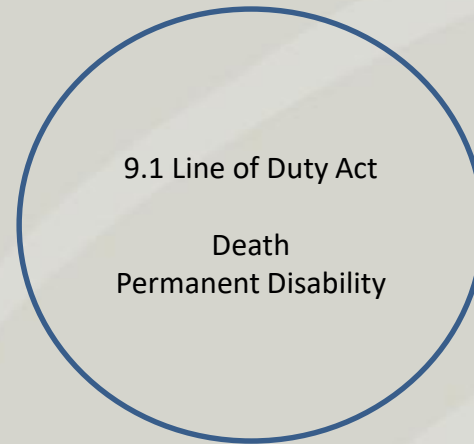
- ✓ **Current Avg. Size Presumption Claim - \$62,768.44**
- ✓ **Current Avg. Size Line of Duty Act Claim - \$275,055.38**
- ✓ **Expected New Heart Claims if EMT Included – 10-20**
- ✓ **Expected New Heart Claims if Corrections Included – 15-30**
- ✓ **Expected New Cancer Claims if SB1030 Passes – 7-15**
- ✓ **Expected PTSD Claims  - 10-100?**
- ✓ **Total Impact - \$2,364,766.74 - \$55,740,930**
- ✓ **Current VACORP Premium - \$36,927,507 (6.4% - 150.95%)**

CURRENT SYSTEM

VA Workers' Compensation Commission



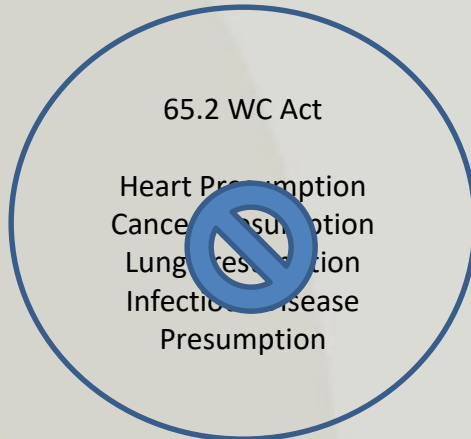
Virginia Retirement System



- A large portion of Presumption Claims are litigated
- It is a lengthy process to gather and review medical bills
- The process leads to average presumption determination periods of Months
- Benefit payouts get delayed leading to hardships for affected worker
- Line of Duty awards are delayed awaiting VWCC determination
- Presumption claims are very large and local resources and contracts must be preserved
- There is no coordination between VWCC or VRS on any of these matters

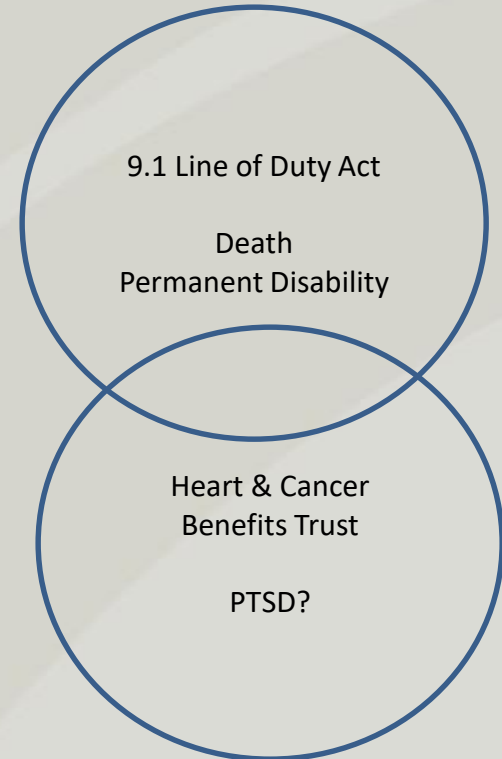
OPTIONAL SYSTEM

VA Workers' Compensation Commission



- Presumptions removed from 65.2 and placed in 9.1
- Line of Duty Benefits are preserved
- Line of Duty awarded in specified cases
- Trust created to pay benefits in specified cases immediately
- Litigation should be eliminated except in Line of Duty appeals
- VRS makes determinations (In Theory)
- Local Governments can still be participating or non-participating

Virginia Retirement System



OPTIONAL SYSTEM

Workers' Compensation

INJURIES BY ACCIDENT

Wages – \$276 - \$1,102 per week up to 500 weeks
Medical – Lifetime Pursuant to VA Fee Schedule
Death Benefit – 500 Weeks
(\$100,000 minimum \$500,000 maximum)

Presumption Trust

INJURIES BY DISEASE

Wages – See Schedule
Medical – Paid through employee health plan
Death Benefit – None
Re-training Benefit - See Schedule
Accelerated Benefit for terminal diagnosis

Line of Duty

Line of Duty Death and Permanent Disability

Wages – Covered above
Medical – Covered above
Death Benefit - \$100,000
Permanent Disability Benefit – Health Insurance
through Trust until age 65 for employee and
spouse and age 26 for child dependent

CANCER SYSTEM

Stage of Cancer	0	1	2	3	4
Skin					
Digestive					
Genitourinary					
Brain					
Hematological					

Award Level	Benefit
0	
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	

Stage 4 or Death triggers Line of Duty

General Definitions	
Cancer	Means cancer that originates as a cancer of the brain, skin, digestive system, hematological system, genitourinary, system.
Claim Administrator	Means Virginia Retirement System (VRS) or other designated administrator
Covered Individual	Means a firefighter, part-time firefighter, volunteer firefighter, or other individual as defined by 65.2-402(C)
Employer	Means a political subdivision as defined in Section 15.2 in the code of Virginia
Firefighter(s)	Means a full-time active employee of an Employer who regularly works at least 1,600 hours in any calendar year and whose duties are directly involved with the provision of fire protection services and who is no a volunteer firefighter
Participating Employer	Means an employer that participates in the VRS Trust
Non-participating Employer	Means an employer that made an irrevocable election to not participate in the VRS Trust and elected to self fund
Part-Time Firefighter	Means a full-time active employee of an Employer who regularly works less 1,600 hours in any calendar year and whose duties are directly involved with the provision of fire protection services and who is no a volunteer firefighter
Tobacco Product	Any product that is made or derived from tobacco or vaping and related products that is intended for human consumption
Volunteer Firefighter	Means a volunteer firefighter as defined by 65.2-102

Schedule of Awards	
Aggregate Limit	The maximum amount that can be paid to a Firefighter, Part-Time Firefighter or Volunteer Firefighter as a result of a diagnosis of a covered cancer is \$250,000

Conditions
Self-Inflicted Injury, Suicide is excluded
Any declared or undeclared war is excluded
Travel or activity outside of the USA is excluded
Any cancer which was diagnosed prior to July 1, 2020 is excluded
If a covered individual dies, the award will be paid to the spouse or domestic partner. If there is no spouse or domestic partner, it will be paid to the children equally. If there are no survivors, there are no benefits owed.
If a covered individual returns to work after a diagnosis, the covered individual is entitled to benefits for any subsequent new type of covered cancer diagnosis.
The awards in this coverage are reduced by 25% if a covered individual used a tobacco or vaping product within 5 years immediately preceding the cancer diagnosis.
Years of service, medical exams and eligibility need to be discussed
Covered individuals are only eligible for a single benefit if they are on multiple rosters.
The employer is required to submit a census and the individual must appear on the census for coverage to exist.

HEART SYSTEM

Stage of Heart Disease	Coverage Condition	Benefits
1	A medical exam reveals a Heart and/or Circulatory Malfunction	
2	Hospitalized for LESS than 48 hours for a Heart and/or Circulatory Malfunction	
3	Hospitalized for MORE than 48 hours for a Heart and/or Circulatory Malfunction	
4	Totally and Permanently Disabled a Heart and/or Circulatory Malfunction	

Stage 4 or Death triggers Line of Duty



General Definitions	
Claim Administrator	Means Virginia Retirement System (VRS) or other designated administrator
Covered Individual	Means a Public Safety Officials as defined by 65.2-402(B)
Employer	Means a political subdivision as defined in Section 15.2 in the code of Virginia
Employer Paid Disability Plan	To include programs such as sick leave, injury leave and leave share
Firefighter(s)	Means a full-time active employee of an Employer who regularly works at least 1,600 hours in any calendar year and whose duties are directly involved with the provision of fire protection services and who is no a volunteer firefighter
Heart and Circulatory Malfunction	Means a sudden and serious malfunction of the heart and circulatory system as occurs in a diagnosis of coronary thrombosis, cerebral vascular accident, myocardial infarction, hypertension or cardiac arrest. Will be deemed to have occurred at the beginning of the medical examination by a physician who ultimately makes such diagnosis. Heart and Circulatory Malfunction does not include the condition of angina.
Heart and Circulatory Malfunction Occurrence	Will be deemed to have occurred at the beginning of a medical examination by a physician who diagnoses a covered Heart or Circulatory Malfunction
Hospitalization	The period of confinement in a healthcare facility that begins with a patient's admission and ends with discharge.
Participating Employer	Means an employer that participates in the VRS Trust
Non-participating Employer	Means an employer that made an irrevocable election to not participate in the VRS Trust and elected to self fund
Part-Time Firefighter	Means a full-time active employee of an Employer who regularly works less 1,600 hours in any calendar year and whose duties are directly involved with the provision of fire protection services and who is no a volunteer firefighter
Pre-existing Condition	Physical condition for which a participant has been treated, received medical advice or had taken medication.

General Definitions	
Strenuous Activity	Characterized by vigorous exertion, as action, efforts demanding or requiring vigorous exertion; laborious, vigorous, energetic, or zealously active; requiring great effort, energy, or exertion; vigorously active, energetic or zealous; requiring or involving the use of great energy or effort; intensely active; energetic
Stressful Activity	Activity involving a distressing incident such as: the injury or death of children, a mass fatality, severe injury or death of a fellow covered individual defined by 65.2-402(B) in the line of duty; mass casualties; life threatening situations or victims of violence on the job; known victims and/or their families; responding to major disasters; serious motor vehicle accidents; domestic violence; child abuse call; school shootings; vehicle extrication; high-angle rescue; hazardous materials; confined space; water rescue; first on the scene of accidents, suicides; and acts of violence to include: assault and battery, rapes, bombings, school shootings, responding to floods, earthquakes, and airline crashes where the death toll and property destruction is overwhelming; comforting victims of domestic violence and child abuse; extrication of mangled bodies from motorized vehicles; providing medical assistance to homeless patients on the streets of inner cities; physically restraining patients who are combative due to mind altering drugs or head injuries; comforting parents and family members when a child or loved one has died; coping with grief following the death of a fellow covered individual in the Line of Duty; the result of being exposed to flames and intense heat; exposure to poisonous, flammable or explosive gases and chemicals; exposure to radioactive or other hazardous materials.
Tobacco Product	Any product that is made or derived from tobacco or vaping and related products that is intended for human consumption
Totally and Permanently Disabled	Shall be determined by any two of three selected Accredited Level II Disability Physicians. Means the complete and continuous inability of the Covered Individual to perform the essential duties of his or her regular occupation, or engage in any gainful occupation for which he or she is or can be reasonably qualified for through training, experience or education.
Volunteer Firefighter	Means a volunteer firefighter as defined by 65.2-102
Work Event	Means stressful or strenuous activity related Public Safety activities excluding EMT's and Correctional Officers.

Schedule of Awards	
Aggregate Limit	The maximum amount that can be paid to a Covered Individual as a result of a diagnosis of a covered cancer is \$250,000

Conditions
Self-Inflicted Injury, Suicide is excluded
Any declared or undeclared war is excluded
Travel or activity outside of the USA is excluded
Any Heart and Circulatory Malfunction which was diagnosed prior to July 1, 2020 is excluded
If a covered individual dies, the award will be paid to the spouse or domestic partner. If there is no spouse or domestic partner, it will be paid to the children equally. If there are no survivors, there are no benefits owed.
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Can a Presumption be Rebutted?

Short answer - Yes

- ✓ Pre-employment Physical Examinations
- ✓ Medical Evidence



Rebuttal: Medical Evidence

Two Part Test

To rebut the presumption, the employer must prove:

- ✓ a non-work-related cause for the eligible condition, ***and***
- ✓ that work was not a cause of the eligible condition.

Post-Traumatic Stress Disorder (PTSD)

Several bills were introduced during the 2019 General Assembly that sought to create a PTSD presumption similar to the presumptions for respiratory disease, hypertension or heart disease, and cancer.



Current PTSD Framework:

PTSD can be compensable as:

- (1) an injury by accident,
- (2) occupational disease, or
- (3) ordinary disease of life.



PTSD – Injury by Accident

To be a compensable injury by accident, PTSD must be causally related to: (1) a physical injury, or (2) an “obvious sudden shock or fright”, arising in the course of employment.

- ✓ An external trauma is unnecessary.
- ✓ Claimant must be directly involved with the accident.
- ✓ Words alone are not sufficient to constitute an accident.
- ✓ The Commission will evaluate PTSD claims with reference to the claimant’s particular job (i.e., was the event an expected occurrence).

PTSD – Occupational Disease

Six factors necessary to establish that PTSD arose out of the employment:

1. Direct causal connection between the work and the PTSD;
2. PTSD followed as a natural incident of the work as a result of the exposure;
3. Employment was the proximate cause of the PTSD;
4. Employee did not have substantial exposure to PTSD outside of the employment;
5. **PTSD is incidental to the work and not independent of the relation of employer and employee;** and
6. PTSD originated in a risk connected with the employment

PTSD – Ordinary Disease of Life

An ordinary disease of life **to which the general public is exposed** outside of the employment may be treated as an occupational disease if:

- ✓ That PTSD exists and arose out of and in the course of employment;
- ✓ That PTSD did not result from causes outside of the employment, and
- ✓ PTSD is a characteristic of the employment and was caused by conditions peculiar to such employment.

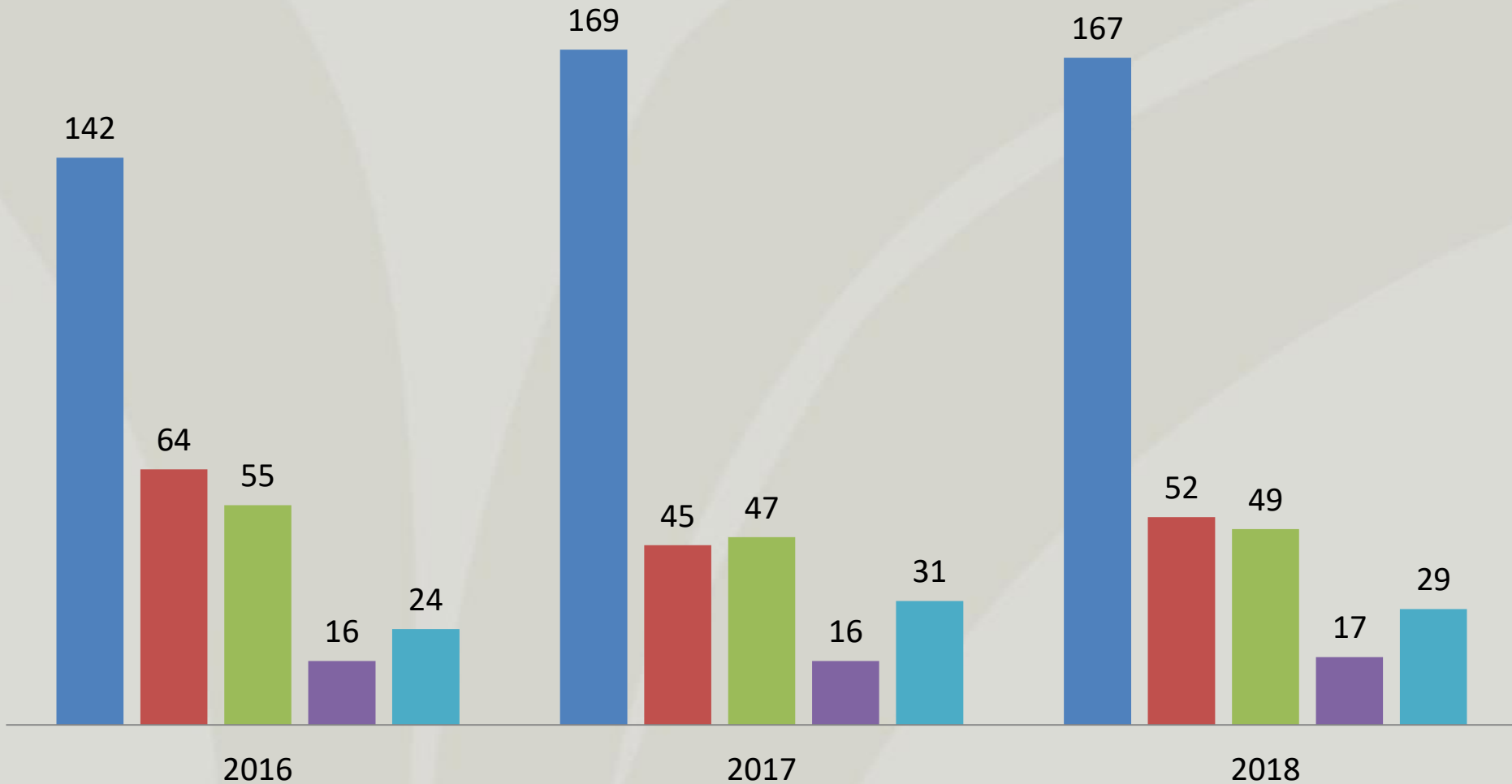
PTSD in First Responders

- First responders experience PTSD at a rate 5 times that of civilians
- 23.7% experience work related depression
- More First Responders die by suicide than in the line of duty
- The topic of PTSD has been historically stigmatized
- EAPs are largely understaffed or nonexistent



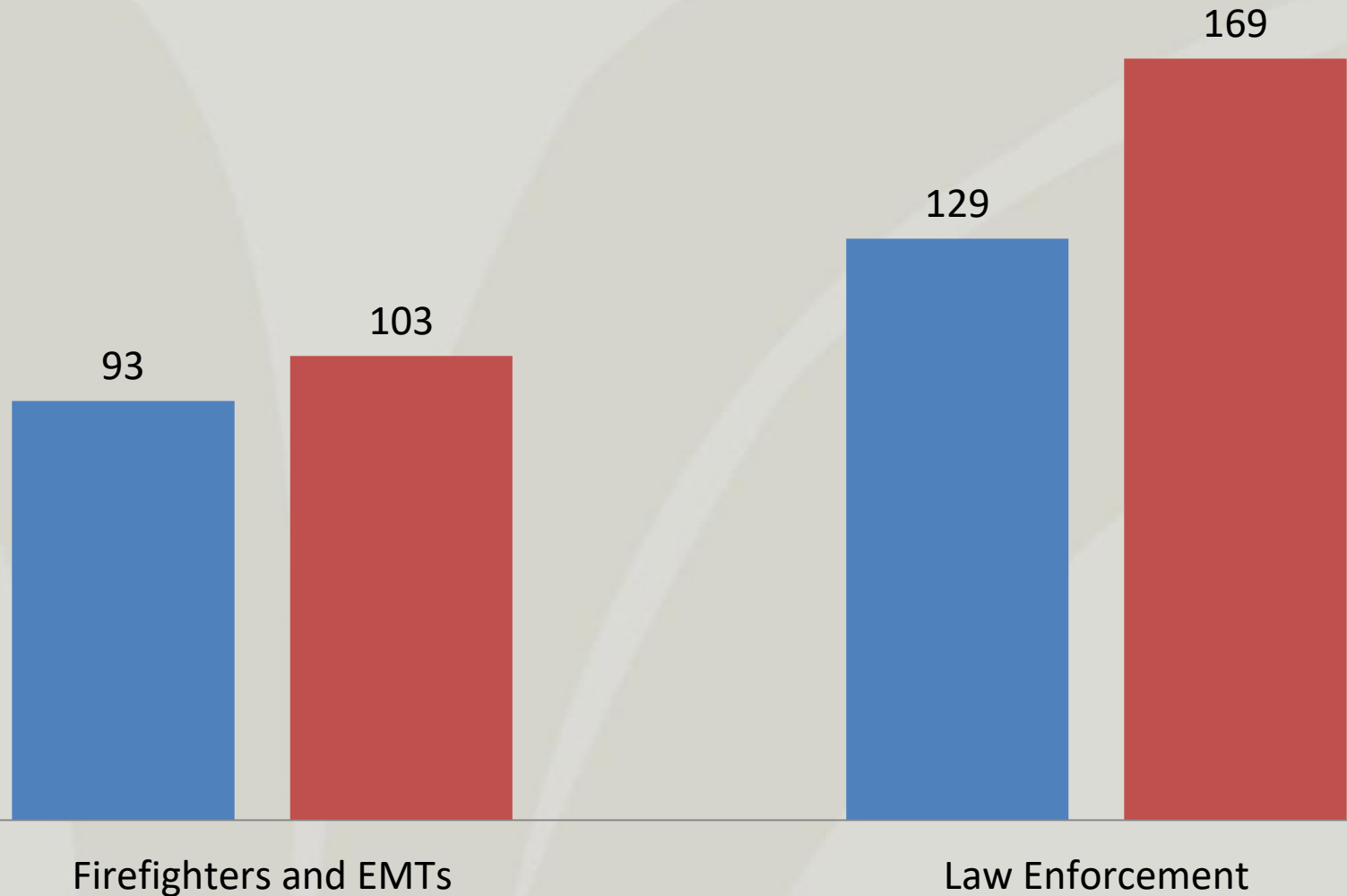
Law Enforcement Deaths

■ Suicide ■ Firearms ■ Vehicle Accident ■ Heart Attack ■ Other



First Responder Deaths in 2017

■ Line of Duty ■ Suicide



2018 LINE OF DUTY DEATH REPORT

BIOGRAPHIES AND INCIDENT DETAILS FOR EACH OF THESE FALLEN HEROES ARE AVAILABLE ON THE OFFICER DOWN MEMORIAL PAGE AT WWW.ODMP.ORG. THEIR SACRIFICE WILL NEVER BE FORGOTTEN.



150

TOTAL 2018 LODDS

4 INCIDENTS W/
MULTIPLE LODDS

BY TOUR OF DUTY

LONGEST

41 YEARS

12 YEARS

AVERAGE

SHORTEST

7 DAYS

LEADING CAUSES OF DEATH



GUNFIRE

52



AUTO

49



HEART

17



OTHER

32

OTHER BREAKDOWN

9/11-RELATED ILLNESS	16
ACCIDENTAL	2
ASSAULT	3
DROWNING	4
DUTY-RELATED ILLNESS	4
FALL	1
STRUCK BY TRAIN	2

FELONIOUS LODDS

NON-FELONIOUS
/ ACCIDENTAL
LODDS



MILITARY
VETERANS

32

BY GENDER



■ = 10 MALE OFFICERS ■ = 10 FEMALE OFFICERS

BY AGE

OLDEST

76

AVERAGE

41

YOUNGEST

23

AGE 70-79

2



AGE 60-69

AGE 50-59

27



AGE 40-49

AGE 30-39

42



AGE 20-29

Why Perform Pre-employment Physical Examinations?

- ✓ Pre-employment physical examinations can detect underlying diseases that can then be treated prior to a catastrophic event whether work related or not.
- ✓ Claimants with pre-existing conditions can be excluded from presumptions if they have undergone pre-employment physical examinations.



General Health Importance

- Higher rates of obesity in public safety
 - Lack of sleep
 - Poor nutrition
 - Inactivity
 - Stress
- Weight and injury correlation
 - Those who engaged in some sort of fitness training were less likely to have an injury
 - Higher BMI was associated with more frequent and more severe injuries
 - BMIs classified as obese missed 3.5 times as many days compared to healthy BMI
 - More than double the days of rehabilitation



Health Initiatives

- Pre-employment/pre-entry physical
- Annual health screenings
- Periodic Work Performance Evaluations (WPE)
- Health and nutrition training
- Exercise classes
- Remember mental health



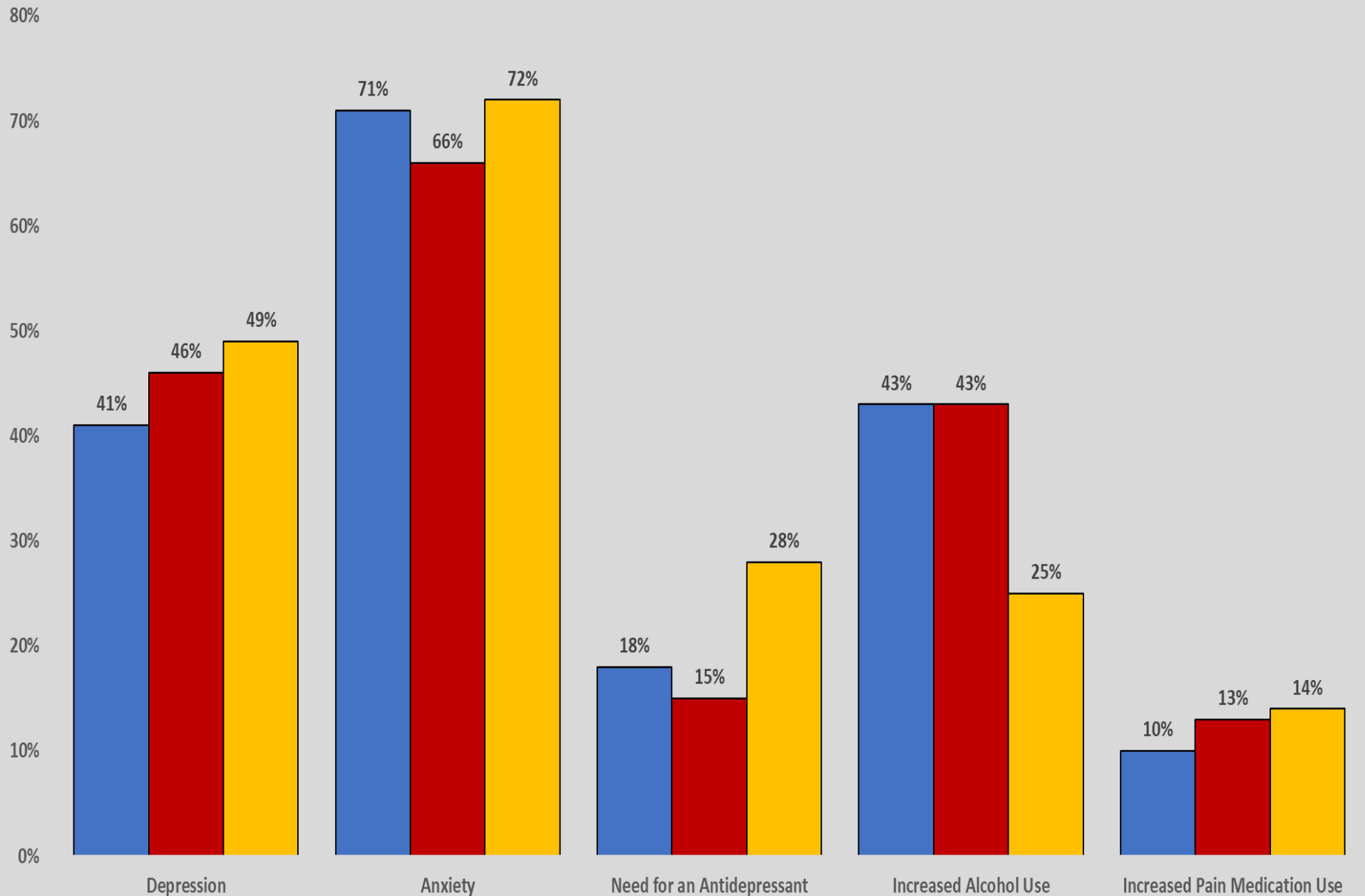
2018 Virginia Statewide Survey

- Twenty-three questions developed by the department psychologists and Incident Support Services Director.
- The survey was endorsed by the employee groups.
- Partnered with US Marshal Service Behavioral Health Department.
- 26 participating public safety agencies.
- 5000 participants.
- Data being used to support a legislative presumption bill for trauma/PTSD



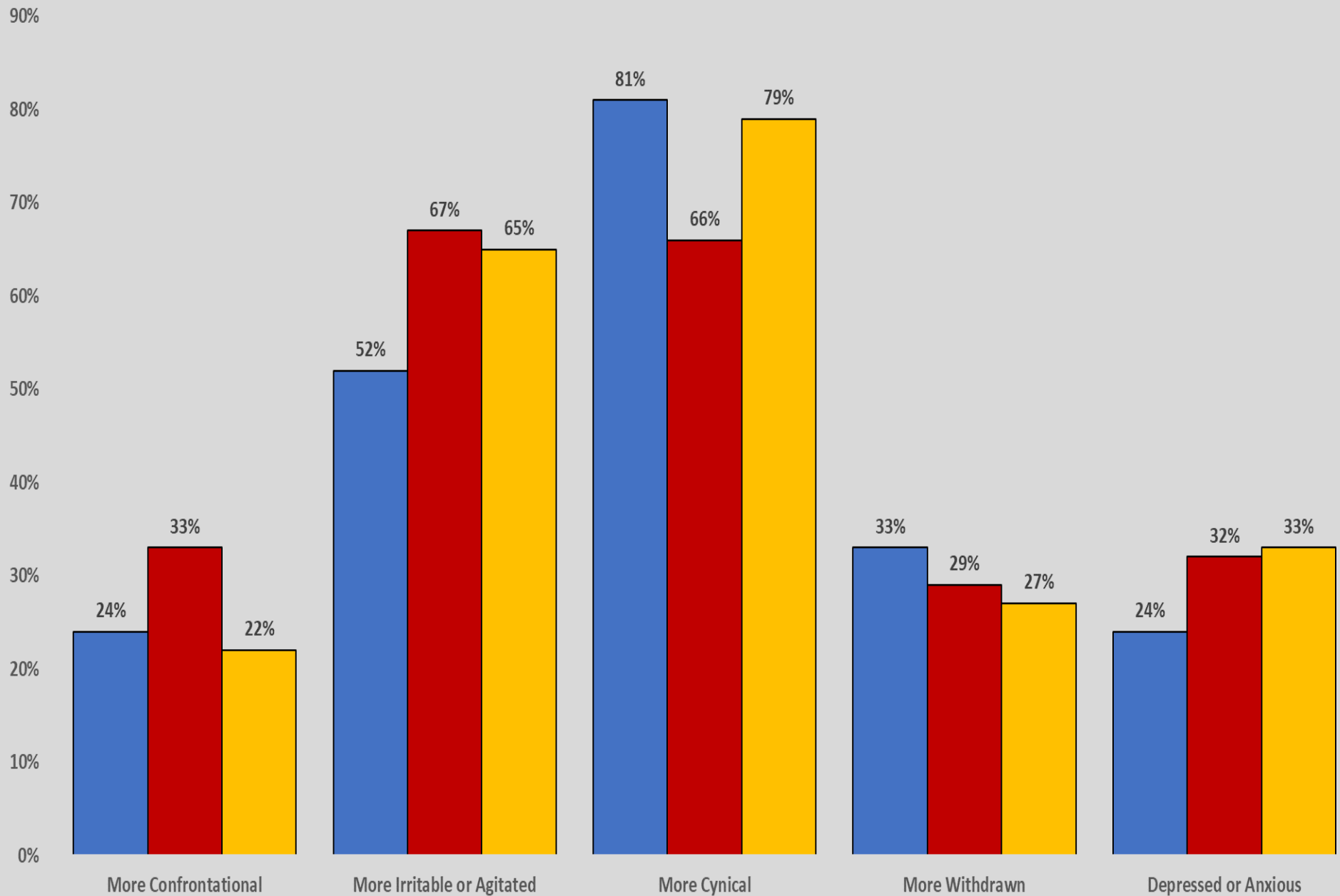
Do you think working in the Public Safety field has caused any of the listed concerns?

Police Department Fire Department Public Safety Communications



If you have changed for the worse, in what way?

Police Department Fire Department Public Safety Communications



How was your physical health when your career began?

Series2 Series3

70%

60%

50%

40%

30%

20%

10%

0%

58%

52%

33%

37%

8%

11%

1%

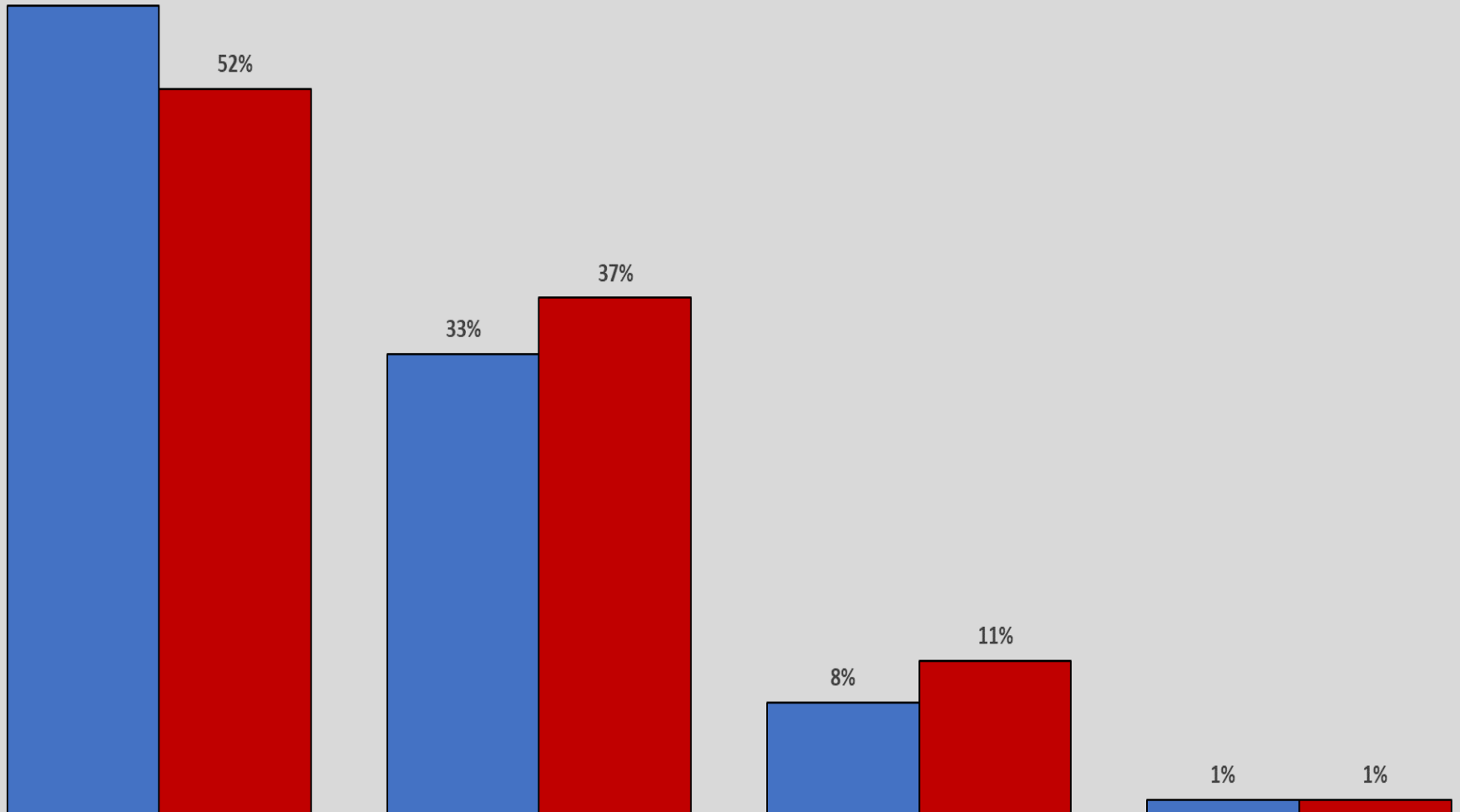
1%

Excellent

Good

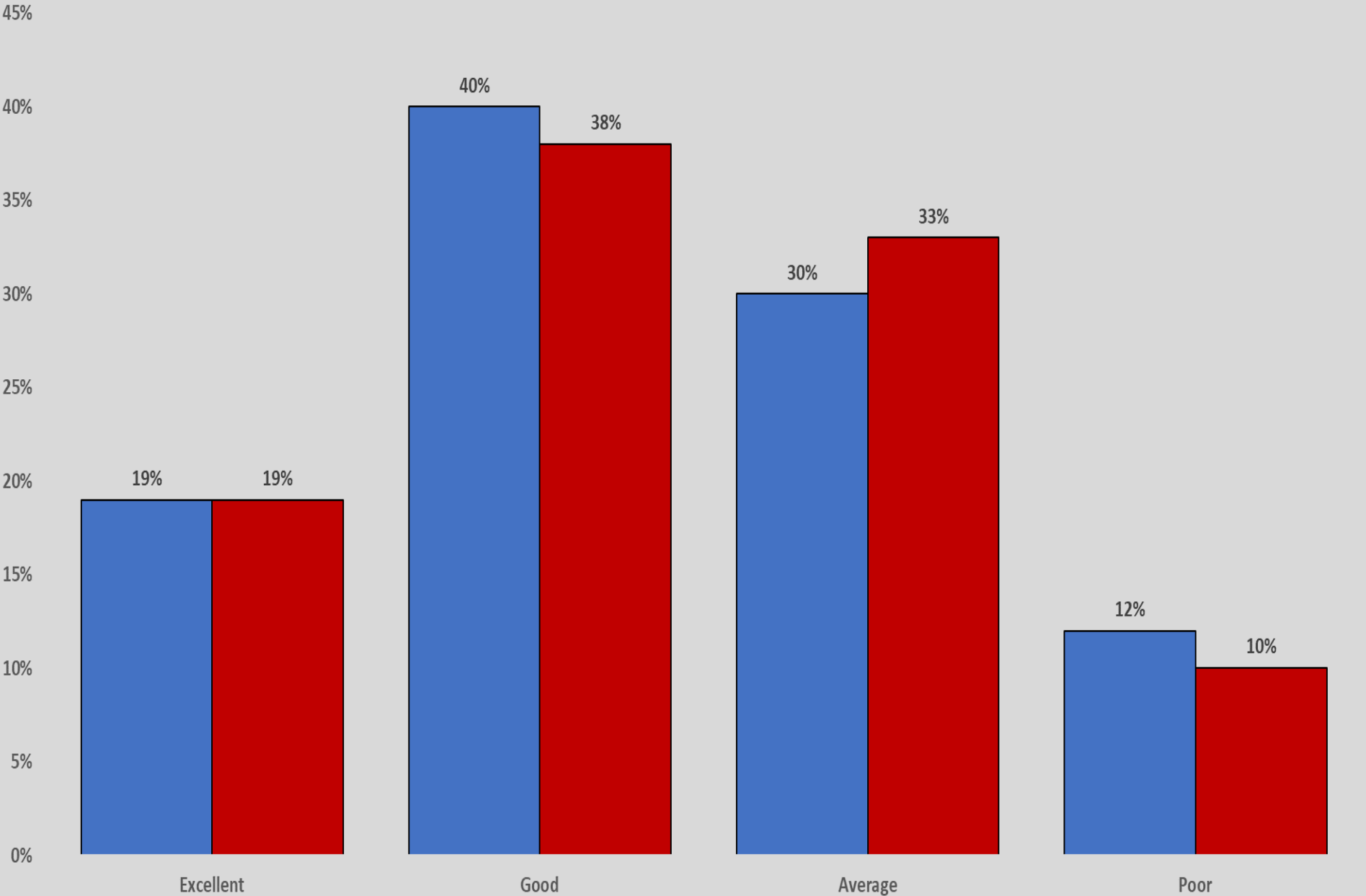
Average

Poor



How is your current physical health?

Series2 Series3



Virginia LEAP

The **Virginia Law Enforcement Assistance Program (VALEAP)** is a nonprofit, 501(c)(3) committed to serving law enforcement officers and first responders who have undergone traumatic critical incidents in the line of duty or in their personal lives.

Additional information available at
<http://valeap.org/>



Rest assured, with us, you're covered.

Reach out, we're here for you.



VACORP

THANK YOU!

www.VACORP.org

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