

The **STRENGTH** you need.

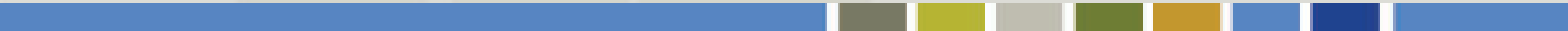
The **PARTNERSHIP** you expect.



VACORP

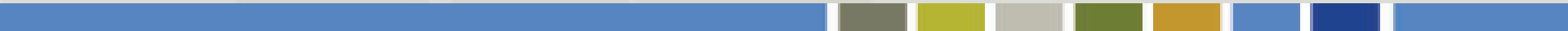
Emerging Risks for County Governments

Chris Carey
Administrator



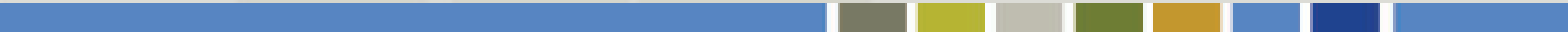
Disclaimer

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.



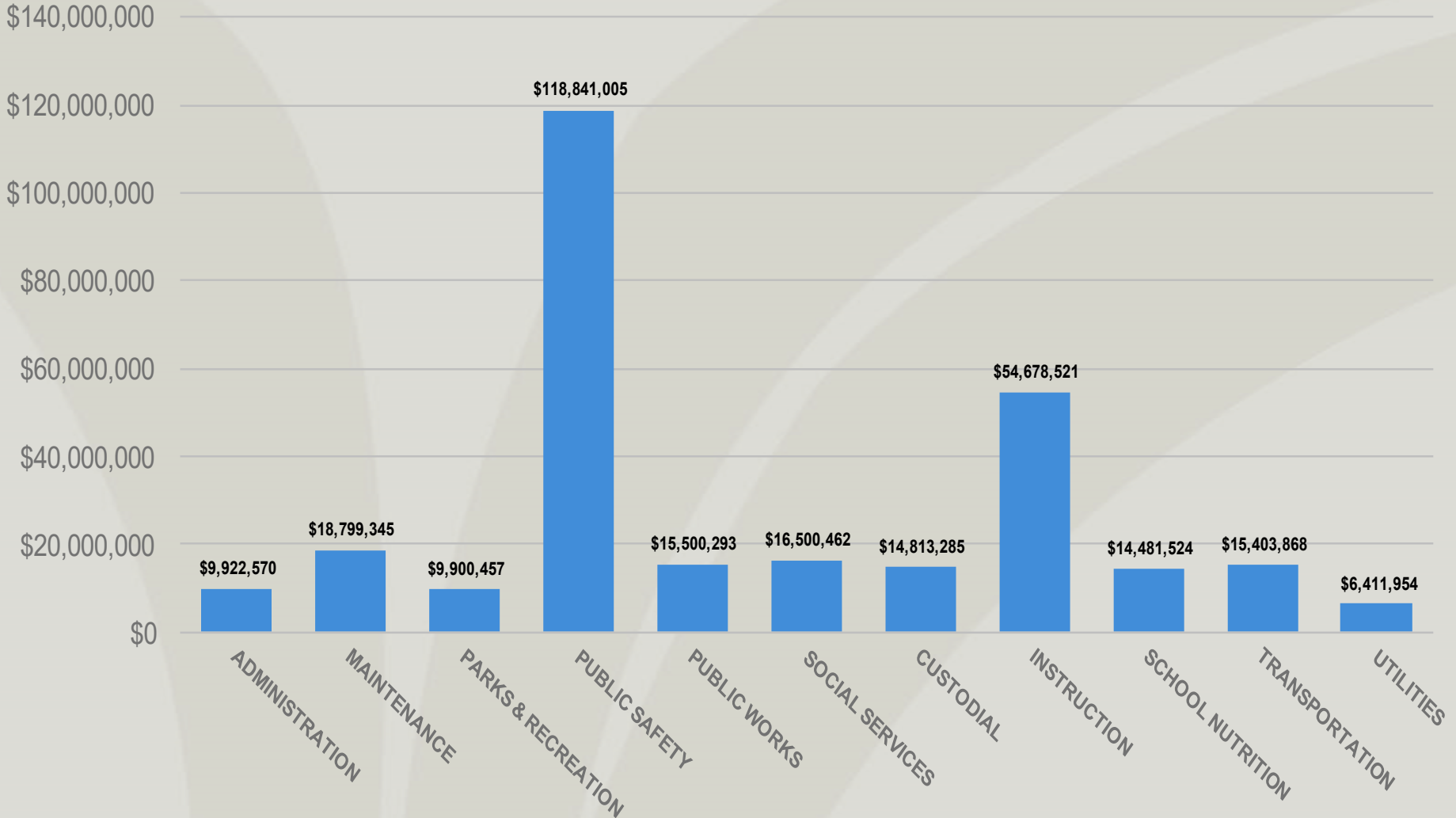
Workers Compensation Current and Prospective Changes

- Cancer Presumptions
- Heart Presumption for EMT and Corrections
- PTSD for Public Safety
- COVID-19 Presumptions
- Repetitive Motion



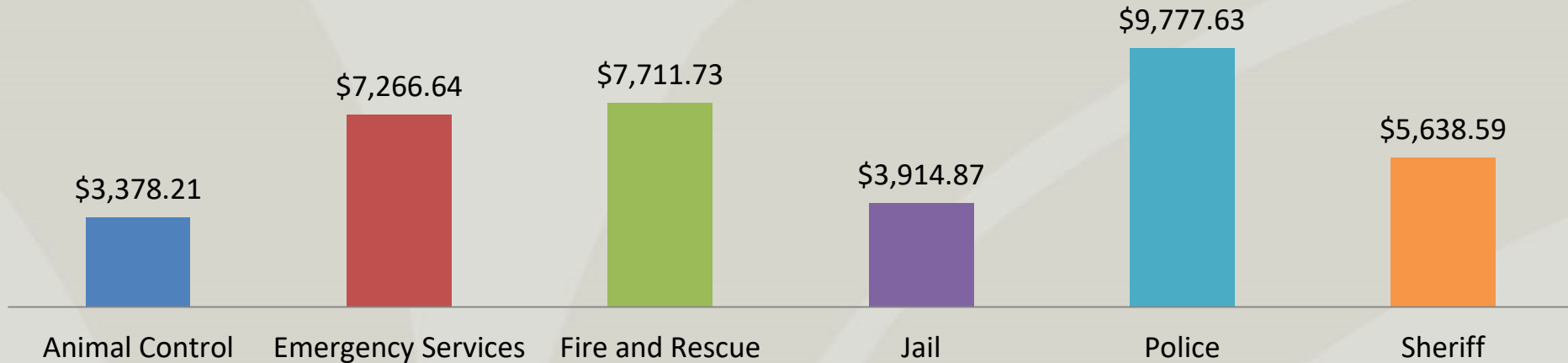
10 Year Workers' Compensation History

Severity of Claims Handled by Department



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**

2020 General Assembly


2019 SB 1030:

- ✓ **Adds cancers of the colon, brain, or testes** to the list of cancers that are presumed to be an occupational disease. Removes language to show contact with a toxic substance. Reduces the length of service requirement from 12 years to 5 years.
- ✓ **Potential for the addition of EMT and Correctional Officers to Heart Presumption**
- ✓ **Coverage for PTSD added but NOT as a presumption**

2020 General Assembly

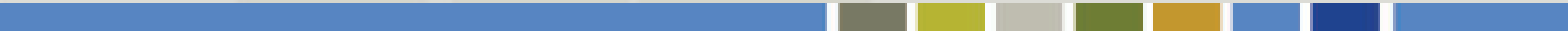
- ✓ **Coverage for PTSD added but NOT as a presumption**
 - Creates an eligibility process whereby 1 of 5 things must occur to trigger eligibility
 - The burden of proof remains with the employee.
 - Limits benefits to 1 year of disability and 4 years of medicals.
 - Coordinates benefits with other sources (e.g. disability, social security, etc.

Presumption 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%)**

COVID-19 Workers' Compensation Presumption – HB5028

- Law Enforcement
- Firefighters & EMT's
- Corrections
- Regional Jails
- School Board Employees

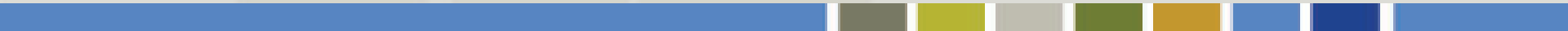


COVID-19 Workers' Compensation Presumption

Presumption would cover BOTH a positive diagnosis AND exposure cases.

It would be retroactive to January 1, 2020.

It would be the first disease in Virginia history where you could receive workers' compensation benefits without having an actual change in condition.



COVID-19 Cost Implications

- ✓ VACORP obtained an actuarial opinion of the impact of providing coverage as a Presumption for COVID-19 claims.
- ✓ VACORP had data from Public Safety from March through August of 2020 as well as data from other states that had investigated providing benefits
- ✓ VACORP had no data from School Systems because Schools had remained closed during the period in question

The Actuary determined the following results would impact VACORP if implemented:

- 1. Retroactive claims with no positive test: \$454,000**
- 2. Retroactive claims with a positive test: \$1,664,000**
- 3. Prospective claims with no positive test: \$1,001,000**
- 4. Prospective claims with a positive test: \$3,661,000**

Total Potential claims for FY21: \$6,780,000 (Public Safety Only)

COVID-19 Cost Implications

- Expected Loss Rates for FY22 if enacted.
 - For positive test result \$0.85/\$100 of payroll
 - For non-positive test results \$0.23/\$100 of payroll
 - **Expected Total costs of \$1.08/\$100 or payroll**

Costs were developed off of Public Safety claim frequency data.

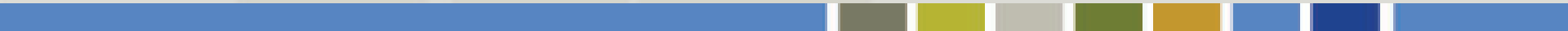
Annual Cost estimates range statewide from \$25,000,000 to \$100,000,000 depending on which employee classes are included.

Cumulative Trauma Injuries – Workers' Compensation

JLARC recommended a study on cumulative trauma injuries to be included in the workers' compensation act.

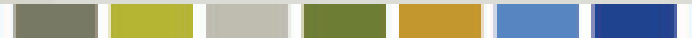
The study is due to be completed within the next several weeks and presented to the VWCC.

It is expected that there will be a bill to include benefits at some level during the 2021 session.



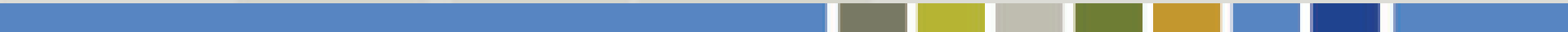
Law Enforcement Liability Matters

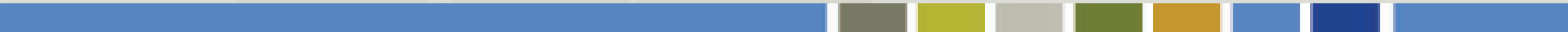
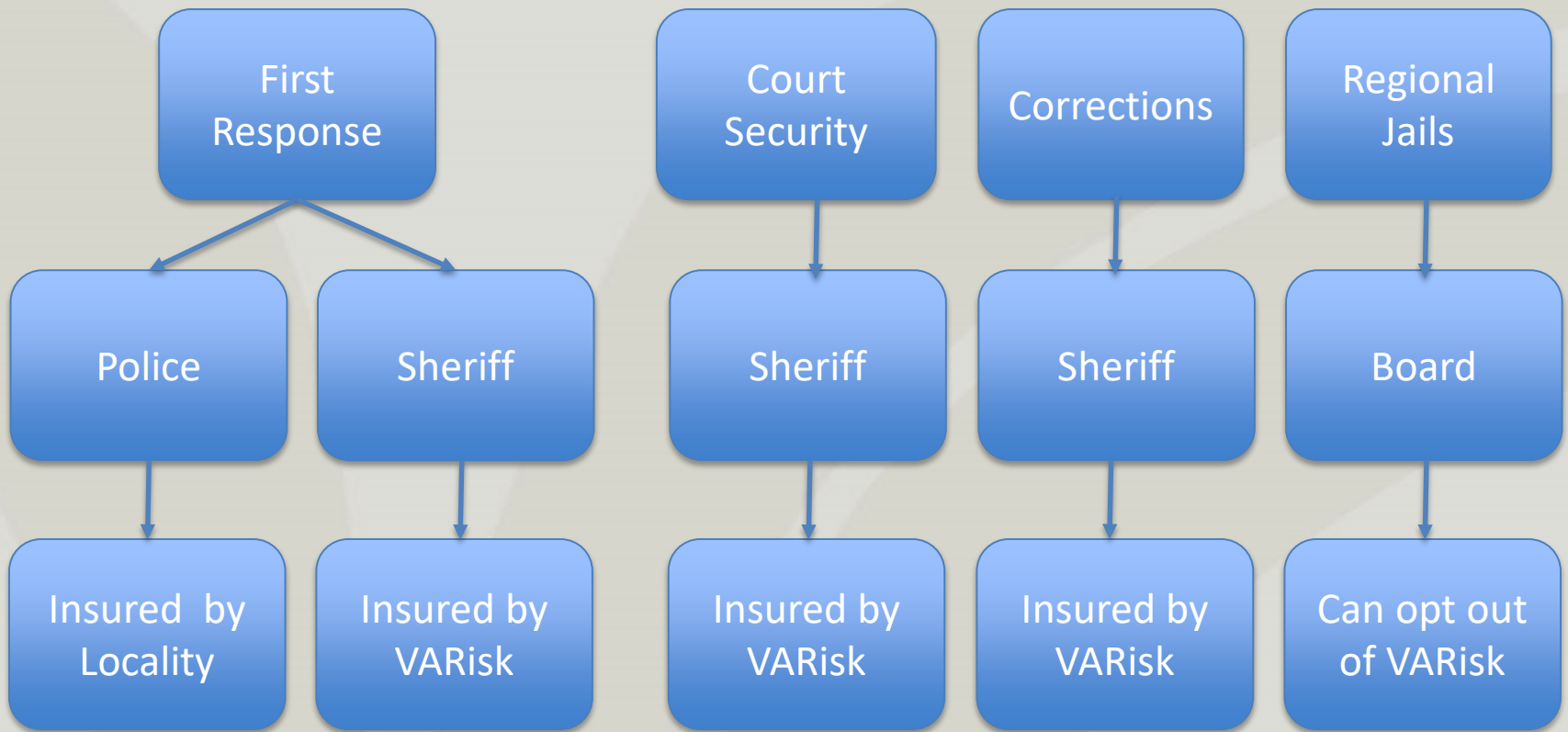
- Law Enforcement Structure
- New Laws enacted during the recently concluded Special Session
- Potential Issues with Sovereign Immunity



Law Enforcement Structure

- First Response
- Courts Security
- Corrections
- Regional Jails





New Laws Passed During the Special Session

- Motorcycle Noise Ordinance 15.2-919
- Marijuana Odor Enforcement 18.2-250.1
- Motor vehicle Enforcement of Minors 46.2-334.01
- Learner's permit Enforcement 46.2-335
- Vehicle Registration Enforcement 46.2-646
- Smoking with minor in vehicle 46.2-810.1
- Pedestrian Enforcement 46.2-923

New Laws Passed During the Special Session

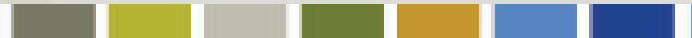
- Vehicle Equipment Enforcement 46.2-1003 - 1157
- Prohibition on Neck Restraint 19.2-83.3
- Pattern of Misconduct 2.2-511.1
- FOIA 2.2-3706
- Prohibition of No Knock Warrant 19.2-56
- Change to Hiring Standards 15.2-1705
- Information Disclosure Immunity 15.2-1709

New Laws Passed During the Special Session

- Training Requirements 9.1-102
- Prohibition on Military Surplus Equipment 2.2-5515
- Data collection of prohibited practices 152.-1609
- Use of Force 19.2-83.3-7
- Civilian Oversight Bodies 9.1-601
- Intervention by Other Officers 19.2-83.4

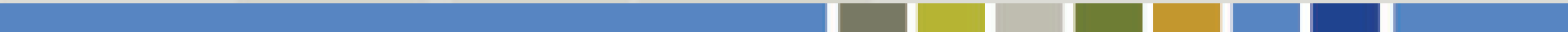
Current Prospective Issues

- All of these changes set the stage for considerably more litigation against the State, Localities and Constitutional Officers.
- All of these changes will make recruitment and retention of Law Enforcement considerably more difficult.
- Although sovereign immunity was not changed during this session, the General Assembly made it quite clear that it will be during the regular session.



Current Prospective Issues

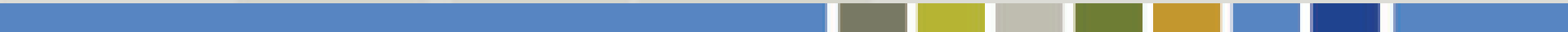
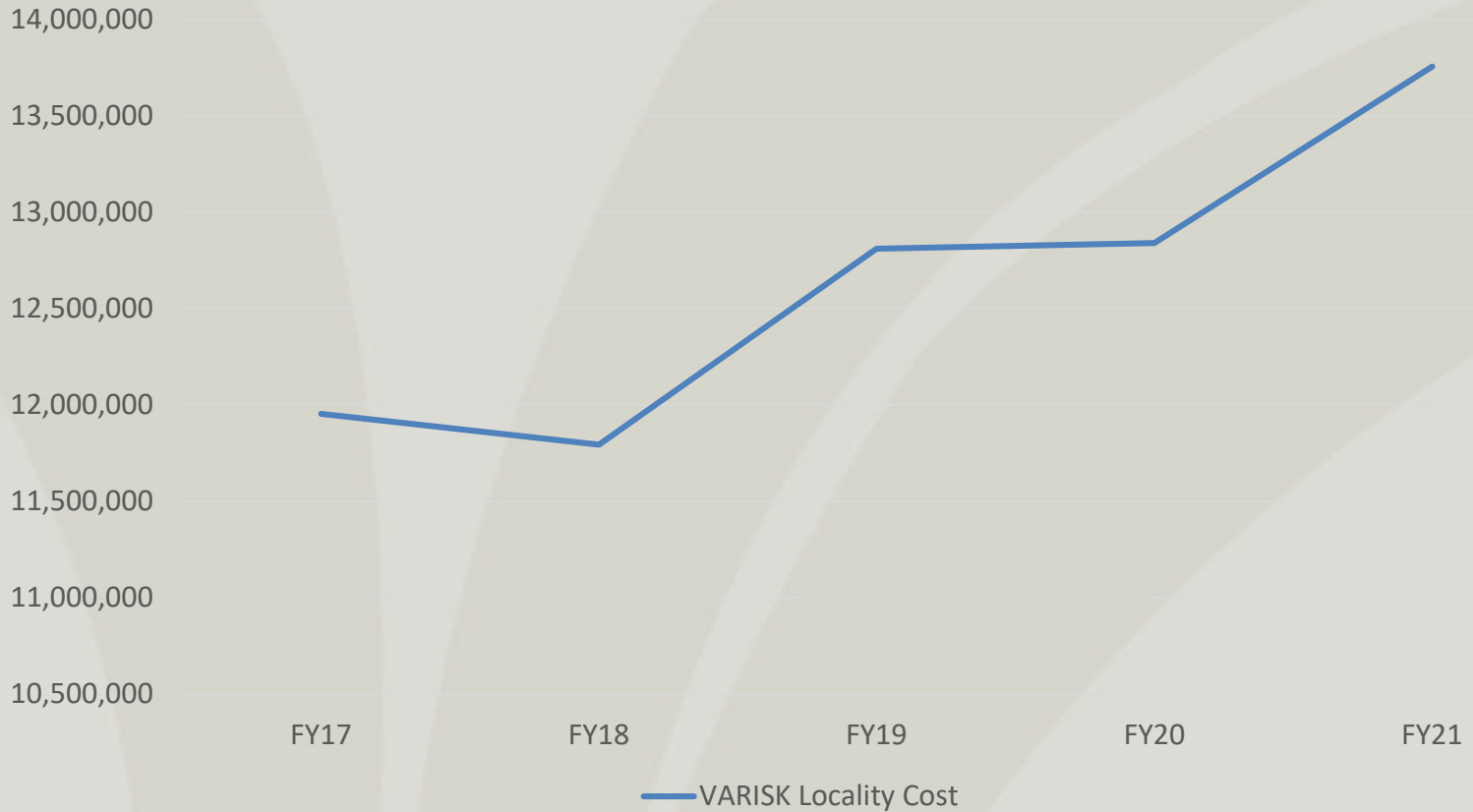
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Current Prospective Cost Issues

- There are 10 Counties with Police Departments.
- Most of these localities are self-insured. It is likely that these localities will face higher deductibles and/or higher re/insurance costs.
- 85 Counties utilize the Sheriff's Office for First Response and all 95 utilize the Sheriff for Court Security and Corrections. Regional Jail Authorities participate in Corrections as well.
- All of the coverage for Constitutional Officers is mandated to be provided by the Commonwealth by Section 2.2-1839.

VARISK Locality Cost



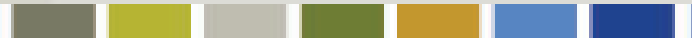
Cyber Liability Matters

- Types of Cyber Events
- Cyber Considerations
- Guidance from the Federal Government

Cyber Liability

According to the FBI, instances of Cybercrime have jumped by as much as 300% since the beginning of the coronavirus pandemic.

The Bureau's Internet Crime Complaint Center (IC3) says it receives between 3,000 and 4,000 cybersecurity complaints every day, up from around 1,000 complaints per day.



Cyber Liability Types

- Cyber Extortion (Ransom Events)
- Data Breach (Loss of PII or PHI)
- Social Engineering Events (Fraud Activity)

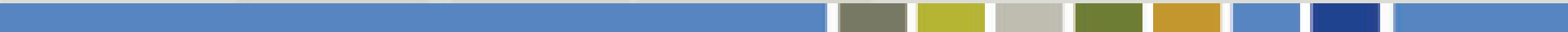
Cyber Liability Considerations

- Notify your Cyber Insurer Immediately
- DO NOT MAKE ANY STATEMENTS TO THE PRESS'
- Allow your Cyber Insurer to appoint legal counsel
- Allow the appointed legal counsel to make recommendations for vendors
- Allow the legal counsel and insurer to enter into agreements for Forensics, Crisis Management, Public Relations and Notification and Monitoring Vendors

Guidance from the Treasury on Ransomware

Organizations are forced to consider making ransom payments when 1) servers are encrypted or 2) to prevent sensitive data with PII and PHI from being posted on the dark web.

On October 1, 2020, the Treasury issued guidance on ransom payments. Utilizing National Security and Foreign asset control as the basis of the guidance, the Treasury is now threatening sanctions against any organizations or financial institutions (insurers) that makes ransom payments.



Rest assured, with us, you're covered.

Reach out, we're here for you.



VACORP

THANK YOU!

www.VACORP.org

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