

Emerging Issues in Workers Compensation Insurance

- *Insurance & The Returning Veteran*
- *Limited English & Workplace Injuries*
- *First Responders & Occupational Risk*

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**Workers Compensation
Education Conference**

Orlando, FL

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Presentation Outline

- **Limited English & Undocumented Workers and Workers Compensation**
- **First Responders**
 - **Emerging Latent Risk Exposure?**
- **The Returning Veteran & WC**
 - *Journal of Workers Compensation, Fall 2006*



LIMITED ENGLISH & UNDOCUMENTED WORKERS

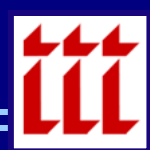
***Above Average Risk for
Occupational Injury & Death***

- **Limited English Workers Tend to be Concentrated in Hazardous Occupations & Industries (agriculture, construction)**
- **Rights of Undocumented Workers**
 - **Generally speaking, such workers are construed to have the same rights as documented workers**
- **Obligation of Employer & Insurer**
 - **Employer is ultimately liable for injury costs**
 - **Insurer is not a branch of the INS**
 - **If valid WC policy in force, insurer will generally be required to pay irrespective of immigration status**



Facts About the Limited English Population in the US

- Total number of persons between 18 and 64 that do not speak English at home: 35.13 million or 19.68% of all persons between 18 and 64
- 12.03% of all persons between 18 and 64 speak Spanish at home ; 7.65% of persons between 18 and 64 speak neither Spanish nor English at home
- 10.94% of workers over the age of 25 speak Spanish at home
- **IMPLICATION:** *Large* proportion of US workforce is not completely conversant or literate in English:
Communication Errors → Occupational Injury, Death



Racial & Ethnic Composition of the US, 2000-2020

| Group | 2000 | 2010 | 2020 |
|-----------------|-------------|-------------|-------------|
| White | 81.3% | 79.3% | 77.6% |
| Black | 12.7% | 13.1% | 13.5% |
| Asian | 3.8% | 4.6% | 5.4% |
| Other | 2.5% | 3.0% | 3.5% |
| Hispanic | 12.6% | 15.5% | 17.8% |

*Hispanics can be of any race.

Source: Projected Population of the US 2000-2050: US Census Bureau.



Educational Attainment by Race and Ethnicity, 2004

Low levels of education attainment among Latino populations associated with Latino over-representation in low wage, high risk jobs

| Group | No High School | High School | Some College | College or More |
|--------------------------|-----------------------|--------------------|---------------------|------------------------|
| White, Non-Latino | 10.0% | 32.8% | 26.3% | 30.7% |
| Black, Non-Latino | 19.3% | 36.0% | 27.0% | 17.7% |
| Asian | 13.2% | 19.7% | 17.5% | 49.4% |
| Latino | 41.6% | 27.6% | 18.6% | 12.0% |



Percent Distribution of Workers by Occupation, 2001

| Occupation | Latino | Non-Latino |
|--------------------------------------|---------------|-------------------|
| Managerial, Professional | 14.5% | 33.0% |
| Technical, Sales, Administrative | 24.1% | 29.5% |
| Service | 20.3% | 12.8% |
| Production, Craft, Repair | 14.8% | 10.5% |
| Operators, Laborers, Fabricators, | 21.3% | 12.1% |
| Farming, Forestry, Fishing | 4.7% | 2.1% |
| Total | 10.9% | 89.1% |

Source: Worker Health Chart Book, 2004: Centers for Disease Control.



Employment and Injury by Occupation, 2002

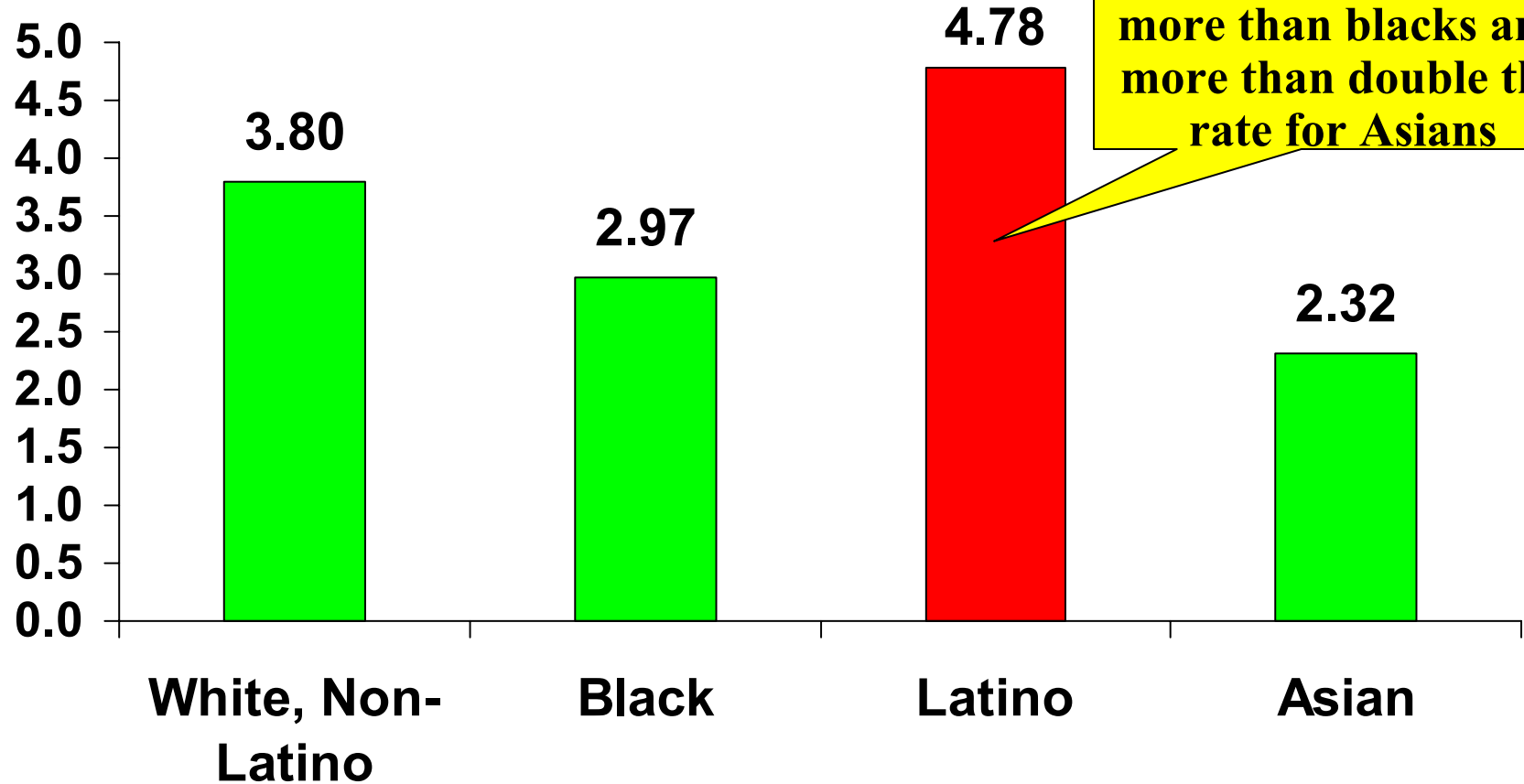
| Occupation | % Injuries | % Employment |
|--------------------------------------|------------|--------------|
| Managerial, Professional | 6.4% | 27.9% |
| Technical, Sales, Administrative | 15.5% | 30.7% |
| Service | 17.4% | 12.5% |
| Production, Craft, Repair | 18.3% | 11.7% |
| Operators, Laborers, Fabricators, | 39.5% | 15.4% |
| Farming, Forestry, Fishing | 2.9% | 1.7% |

Source: Worker Health Chart Book, 2004: Centers for Disease Control and Ill calculations.

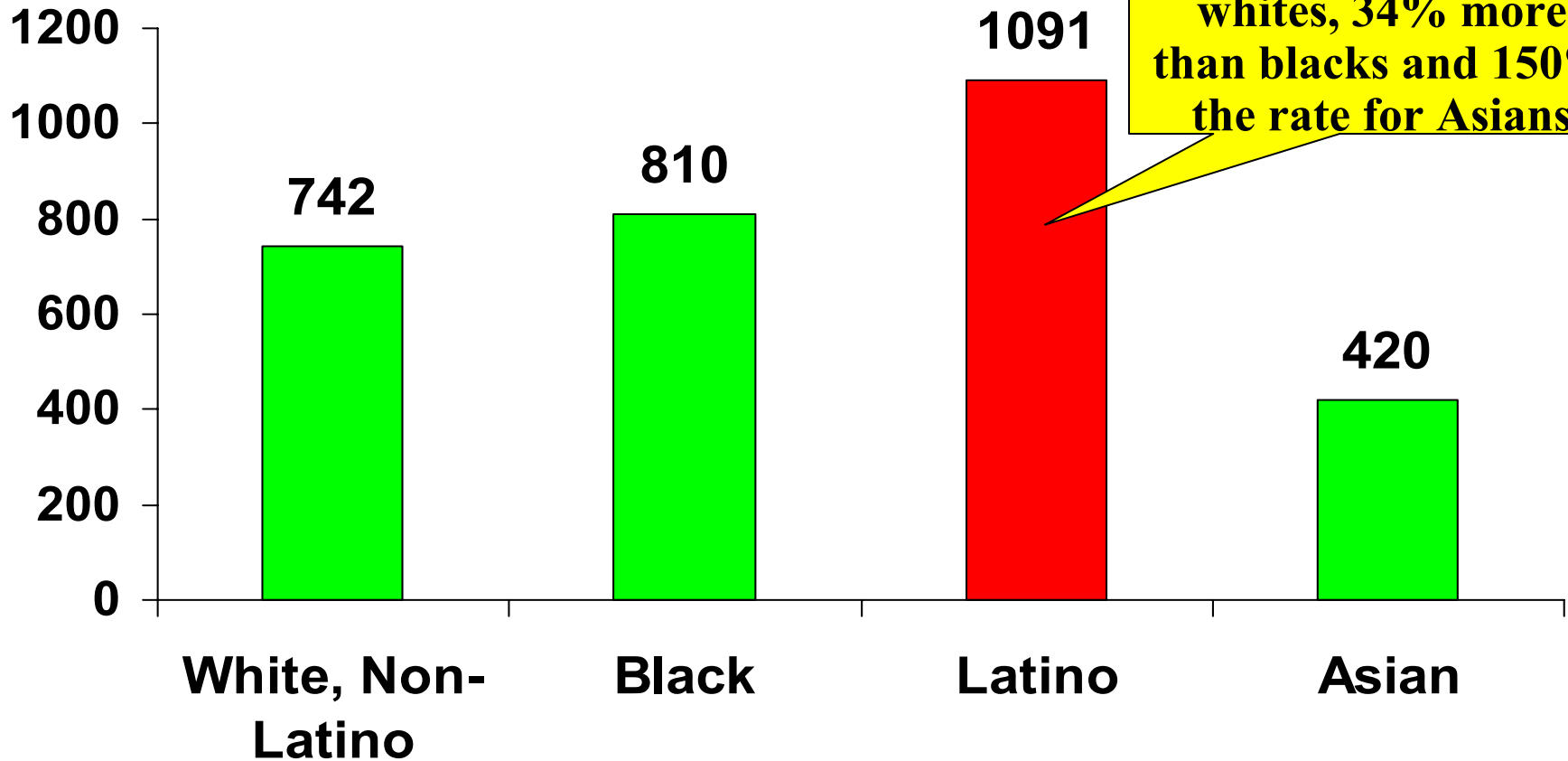


Fatal Worker Injury Rates by Race and Ethnicity, 2002*

Fatality Rate per 100,000 Workers Employed



Injury Rate per 100,000 Workers Employed

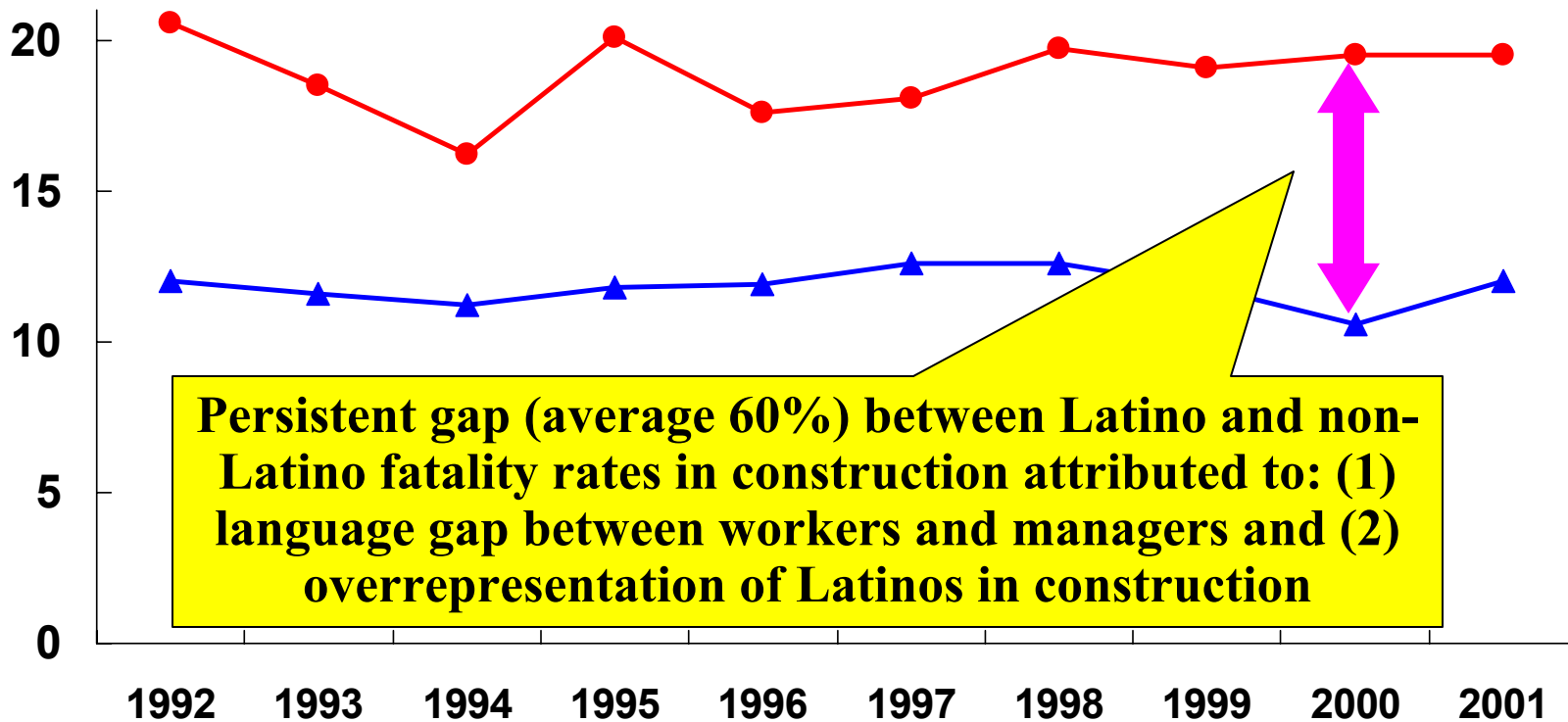




Fatality Rates in Construction: 1992-2001

Fatality Rate per 100,000 Workers Employed

● Latino ▲ Non-Latino



Persistent gap (average 60%) between Latino and non-Latino fatality rates in construction attributed to: (1) language gap between workers and managers and (2) overrepresentation of Latinos in construction



Employment and Non-Fatal Injury by Race, 2002

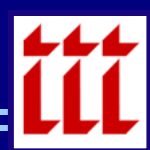
Latino workers experience a disproportionate share of non-fatal injuries relative to their share of employment as compared to all other groups

| Group | Percent of Injuries | Percent Employment |
|-------------------|---------------------|--------------------|
| White, Non-Latino | 68.2% | 74.1% |
| Latino | 17.1% | 10.2% |
| Black, Non-Latino | 11.9% | 9.8% |
| Asian | 2.3% | 3.8% |



A Look Ahead...

- Rapid rise in Latino population over the next decade (including a substantial share of undocumented workers) suggests increasing worker injury and death in industries where Latinos are over-represented.
- Shift of Latino populations to lower risk jobs due to improvements in educational attainment will reduce Latino workplace injury and deaths rates.



FIRST RESPONDERS

***Latent Illnesses & Disease are an Emerging
Workers Compensation Issue***



Health Effects of 9/11 First Responders

- **In the wake of 9/11, there is growing concern about the health effects of exposures sustained by First Responders**
- **WTC First Responders exposed to physical hazards and environmental toxins:**
 - 10,000 Fire Department of New York personnel
 - 30,000 other works and volunteers
- **CDC's National Institute for Occupational Safety and Health has evaluated more than 10,000 workers and volunteers**
- **Many participants experienced lower and upper respiratory symptoms**
- **Recent Death of 9/11 Responder Determined to be from 9/11 Exposure (a first)**



Insured Loss Estimates: Large CNBR Terrorist Attack (\$B)

| Type of Coverage | New York | Washington | San Francisco | Des Moines |
|-------------------|----------------|----------------|----------------|---------------|
| Group Life | \$82.0 | \$22.5 | \$21.5 | \$3.4 |
| General Liability | 14.4 | 2.9 | 3.2 | 0.4 |
| Workers Comp | 483.7 | 126.7 | 87.5 | 31.4 |
| Residential Prop. | 38.7 | 12.7 | 22.6 | 2.6 |
| Commercial Prop. | 158.3 | 31.5 | 35.5 | 4.1 |
| Auto | 1.0 | 0.6 | 0.8 | 0.4 |
| TOTAL | \$778.1 | \$196.8 | \$171.2 | \$42.3 |

Source: American Academy of Actuaries, Response to President's Working Group, Appendix II, April 26, 2006.



Insured Loss Estimates: Medium CNBR Terrorist Attack (\$ Bill)

| Type of Coverage | New York | Washington | San Francisco | Des Moines |
|-------------------|----------------|----------------|---------------|---------------|
| Group Life | \$37.7 | \$22.5 | \$21.5 | \$3.4 |
| General Liability | 7.3 | 2.9 | 3.2 | 0.4 |
| Workers Comp | 313.2 | 126.7 | 87.5 | 31.4 |
| Residential Prop. | 10.3 | 12.7 | 22.6 | 2.6 |
| Commercial Prop. | 77.8 | 31.5 | 35.5 | 4.1 |
| Auto | 0.2 | 0.6 | 0.8 | 0.4 |
| TOTAL | \$446.5 | \$106.2 | \$92.2 | \$27.3 |

Source: American Academy of Actuaries, Response to President's Working Group, Appendix II, April 26, 2006.



Insured Loss Estimates: Truck Bomb Terrorist Attack (\$ Bill)

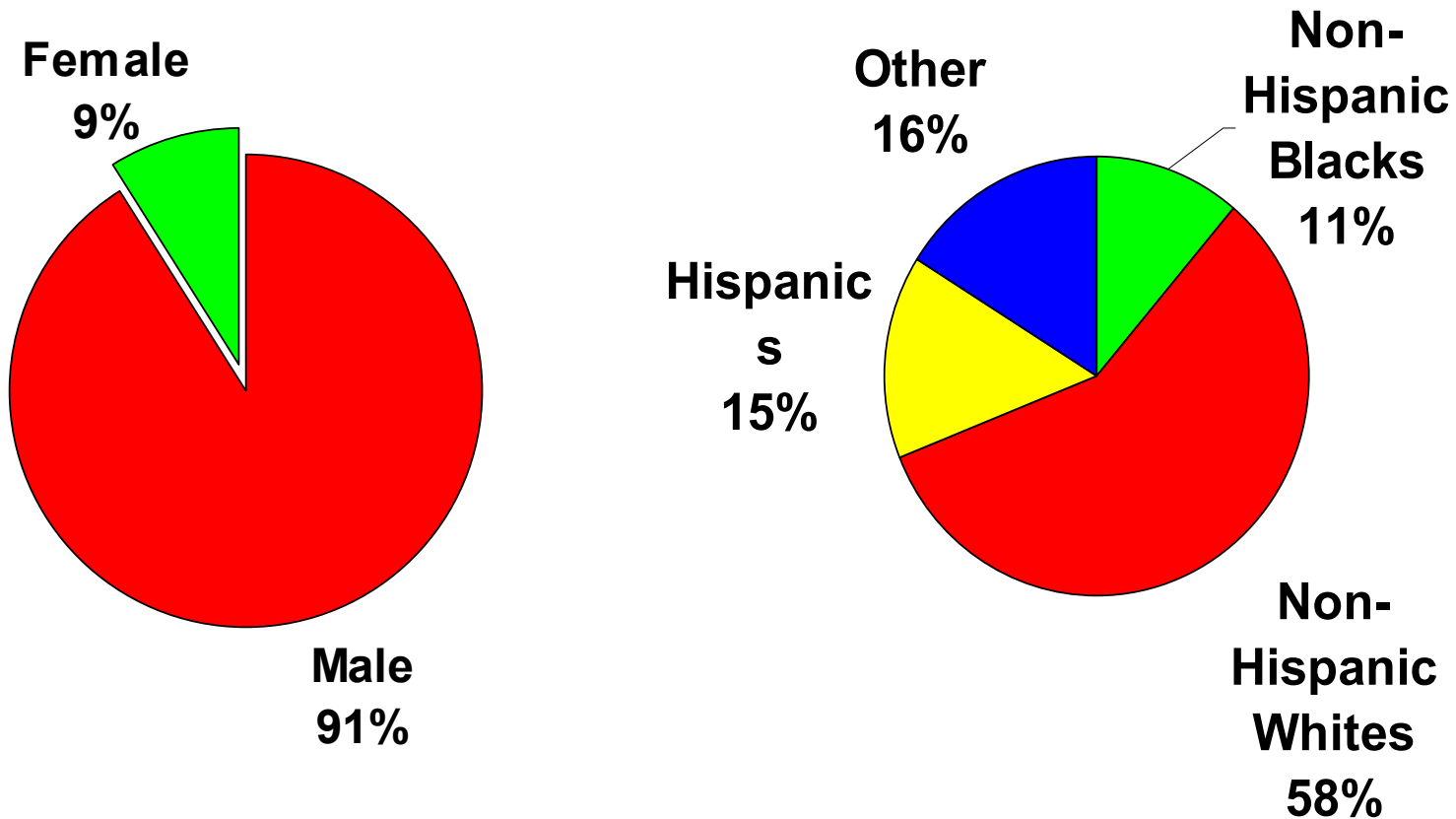
| Type of Coverage | New York | Washington | San Francisco | Des Moines |
|-------------------|---------------|--------------|---------------|--------------|
| Group Life | \$0.3 | \$0.2 | \$0.3 | \$0.1 |
| General Liability | 1.2 | 0.4 | 0.7 | 0.2 |
| Workers Comp | 3.5 | 2.8 | 3.9 | 1.5 |
| Residential Prop. | 0.0 | 0.0 | 0.0 | 0.0 |
| Commercial Prop. | 6.8 | 2.1 | 3.9 | 1.2 |
| Auto | 0.0 | 0.0 | 0.0 | 0.0 |
| TOTAL | \$11.8 | \$5.5 | \$8.8 | \$3.0 |

Source: American Academy of Actuaries, Response to President's Working Group, Appendix II, April 26, 2006.



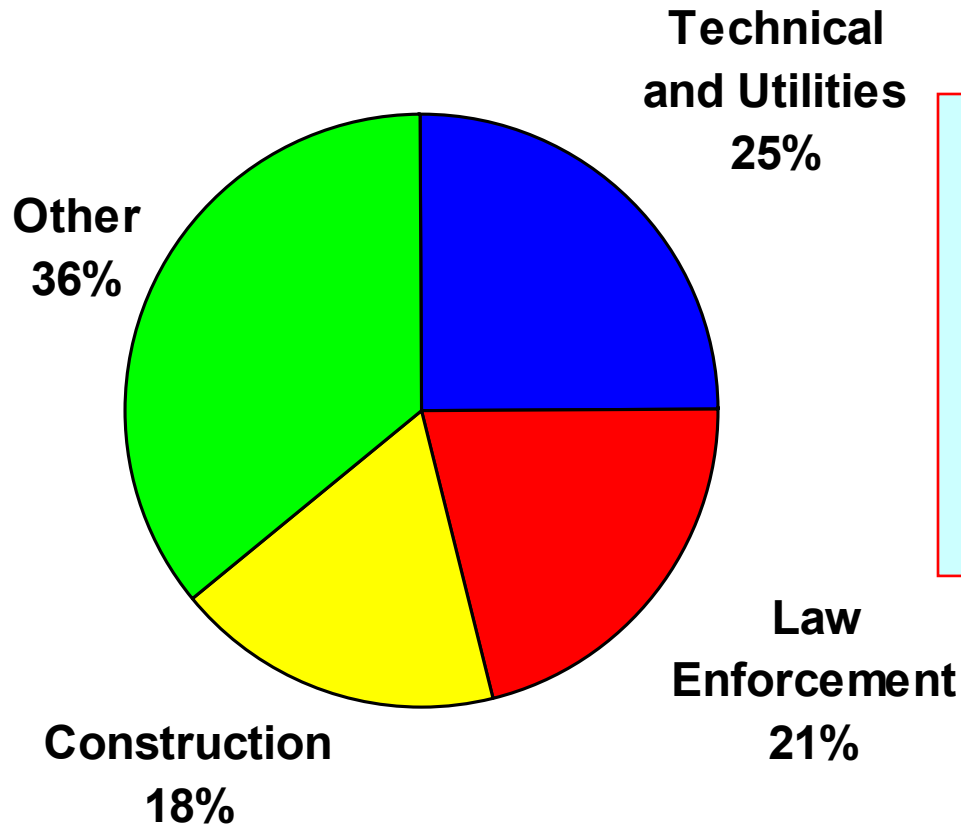
Empirical Health Studies of WTC First Responders

First Responders are predominantly male and non-Hispanic white





First Responders: Occupational Breakdown



Many first responders are in occupations that are traditionally associated with high injury rates, such as construction and law enforcement



Of those studied:

- 46% worked on WTC rescue and recovery efforts on 9/11
- 84% worked or volunteered during September 11-14, when exposures were greatest
- *Only 21% reported using appropriate respiratory protection – i.e., full- or half-face respirators*
- Median length of time worked on WTC efforts was 966 hours



- **Medical screening has revealed that**
 - **WTC-related lower respiratory symptoms were reported by 60% of the sample**
 - **74% reported upper respiratory symptoms**
- **Duration of health effects:**
 - **40% of examinees had lower respiratory symptoms that persisted to the month before screening**
 - **50% reported persistent upper respiratory symptoms**



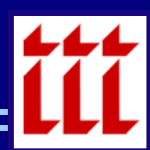
First Responders also experienced numerous other health-related symptoms:

- **Lower back pain (16%)**
- **Upper extremity pain (16%)**
- **Lower extremity pain (13%)**
- **Heartburn (15%)**
- **Eye irritation (14%)**
- **Frequent headaches (13%)**



RETURNING VETERANS

*Insurance Issues Associated with the
Reintegration of Military Veterans to the
Workplace*



Exposure Issues Associated with War in Iraq

- **By the time “major operations” are completed in Iraq and Afghanistan, likely that more than 500,000 military personnel will have be deployed, some more than once**
- **About 40% of these are National Guard and Reserves**
- **Pentagon planning for presence of 100,000+ through 2009 with 25% Reserve/Guard component**
- **About 4.1% of troops in Iraq are physically injured**
 - **18,000+ physically injured so far; many 1000s more yet to come**
 - **Most will return to civilian workforce; some w/impairment**
- **Nearly 30% of soldiers deployed to Iraq exhibit some post-deployment symptoms of mental health problems, including depression, anxiety and PTSD; Alcohol issue**
 - **Estimated that 100,000+ may need some mental health help**
 - **Only a minority will actually ever receive it**



Why Does this Matter for Workers Compensation?

- **Tens of thousands of soldiers will re-enter the civilian workforce having suffered some physical injury**
 - Some will require accommodation
 - Possibility of reinjury/second injury
- **100,000+ will have suffered some mental health issues**
 - How will lack of treatment manifest itself in the workplace?
 - When?
- **Costs to VA are already staggering**
 - VA spent \$4.3 billion on PTSD disability payments in 2004 (excl. med costs)
- **Could be some cost shifting to WC for both physical and “stress” (ultimately mental health related) injuries**
- **Outcome of war, community/family can have effect on incidence of psychological disorders**



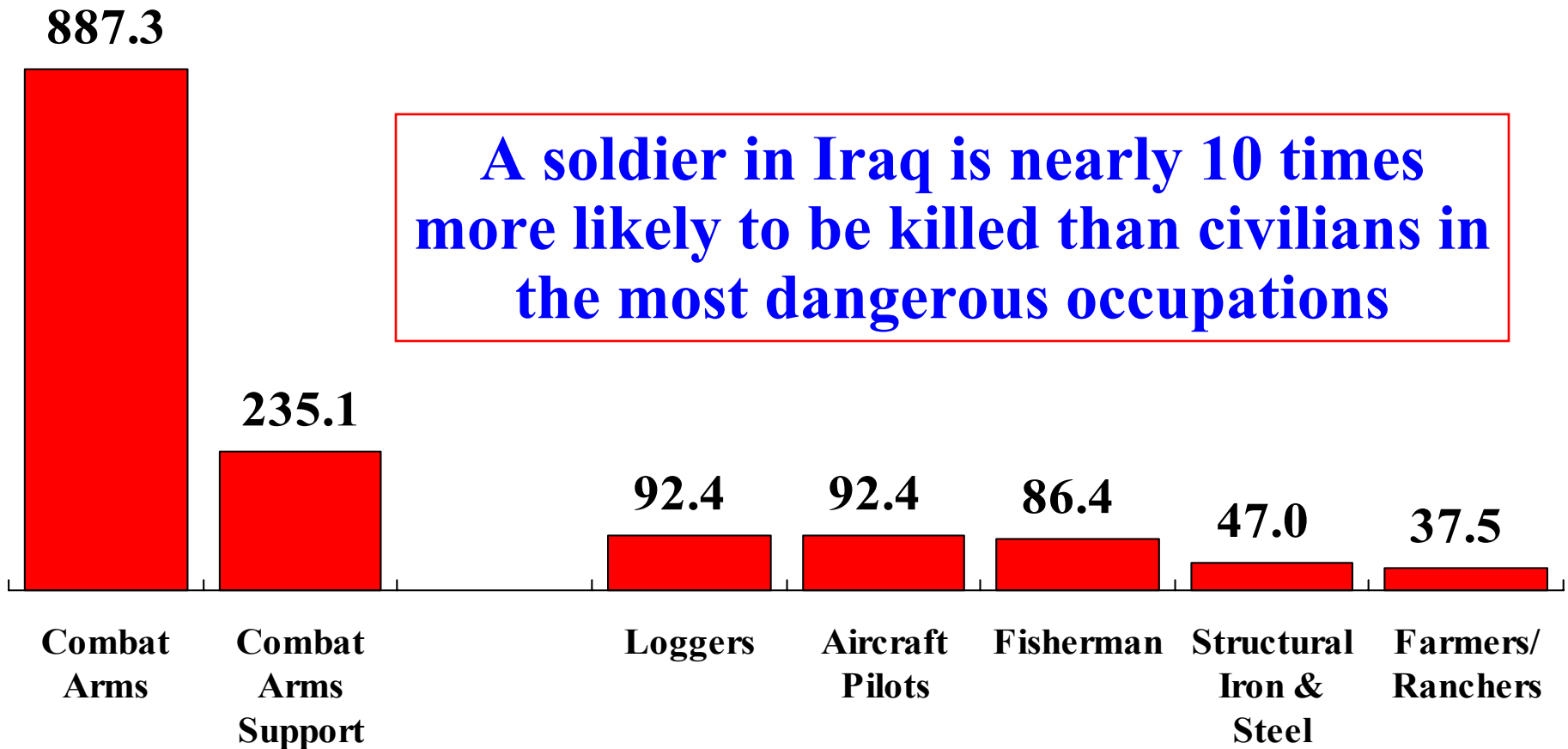
Why Does this Matter for Workers Compensation?

- **Post Traumatic Stress Disorder, or PTSD, is a psychiatric disorder that can occur following the experience or witnessing of life-threatening events such as **military combat**, natural disasters, terrorist incidents, serious accidents, or violent personal assaults like rape.***
- **While Most Vets Function Normally, PTSD & Related Issues that Can Affect Workers Comp Injury Frequency and/or Severity**
 - **Depression**
 - **Substance Abuse**
 - **Occupational Instability Social Maladjustment**
 - **Anxiety**
 - **Sleep Deprivation**
 - **Marital/Family Problems**

*Source: National Center for PTSD; http://www.ncptsd.va.gov/facts/general/fs_what_is_ptsd.html accessed August 20, 2005.



Death Rates per 100,000 Employees



*Military data are for the period March 2003 through May 2005. Civilian data are for 2004.

Source: Brookings Institution, *Iraq Index Archive*, updated June 5, 2006; US Bureau of Labor Statistics.

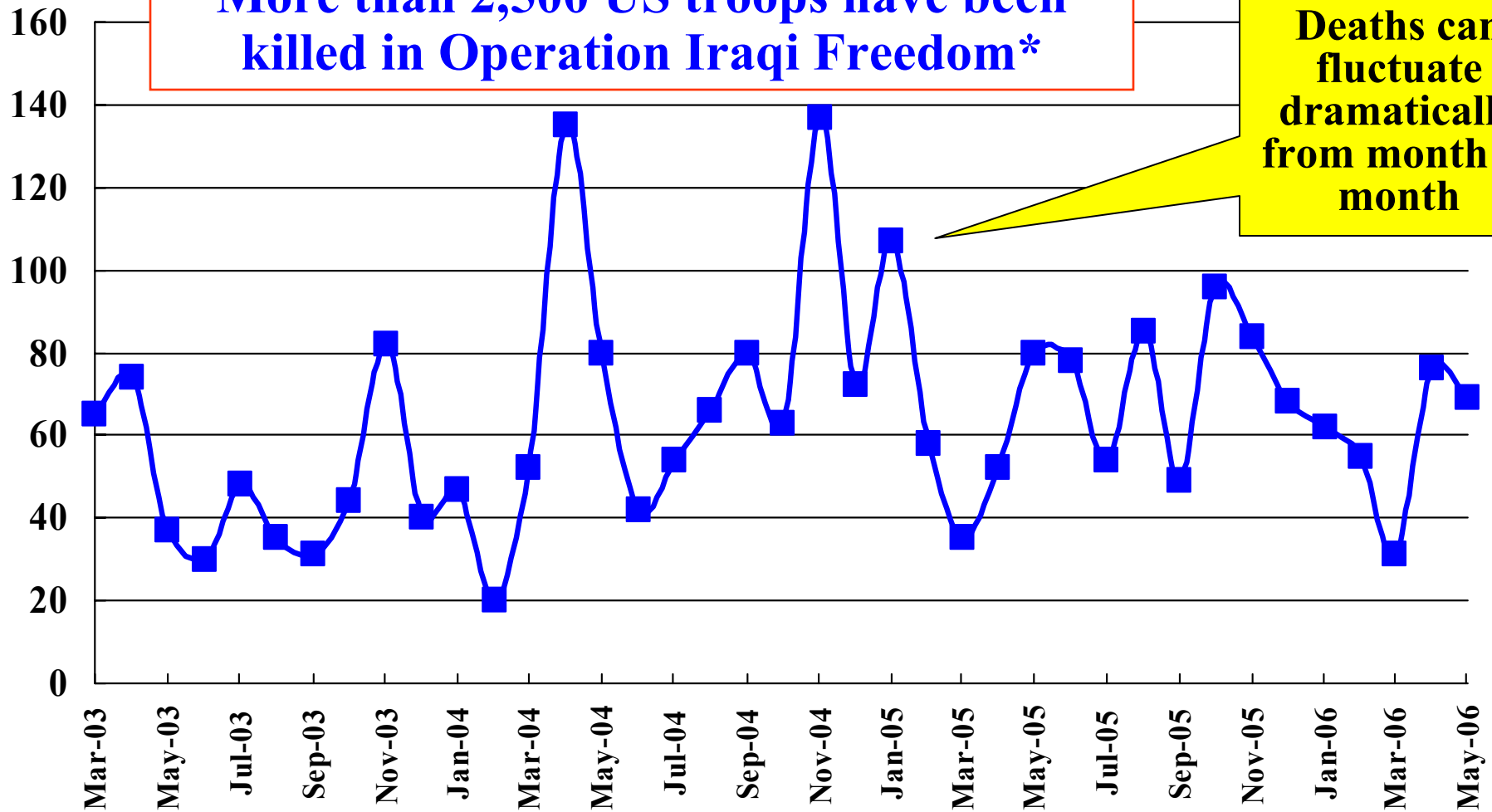


Military Personnel Killed in Iraq

Deaths: March 19, 2003 through May 31, 2006

More than 2,500 US troops have been killed in Operation Iraqi Freedom*

Deaths can fluctuate dramatically from month to month

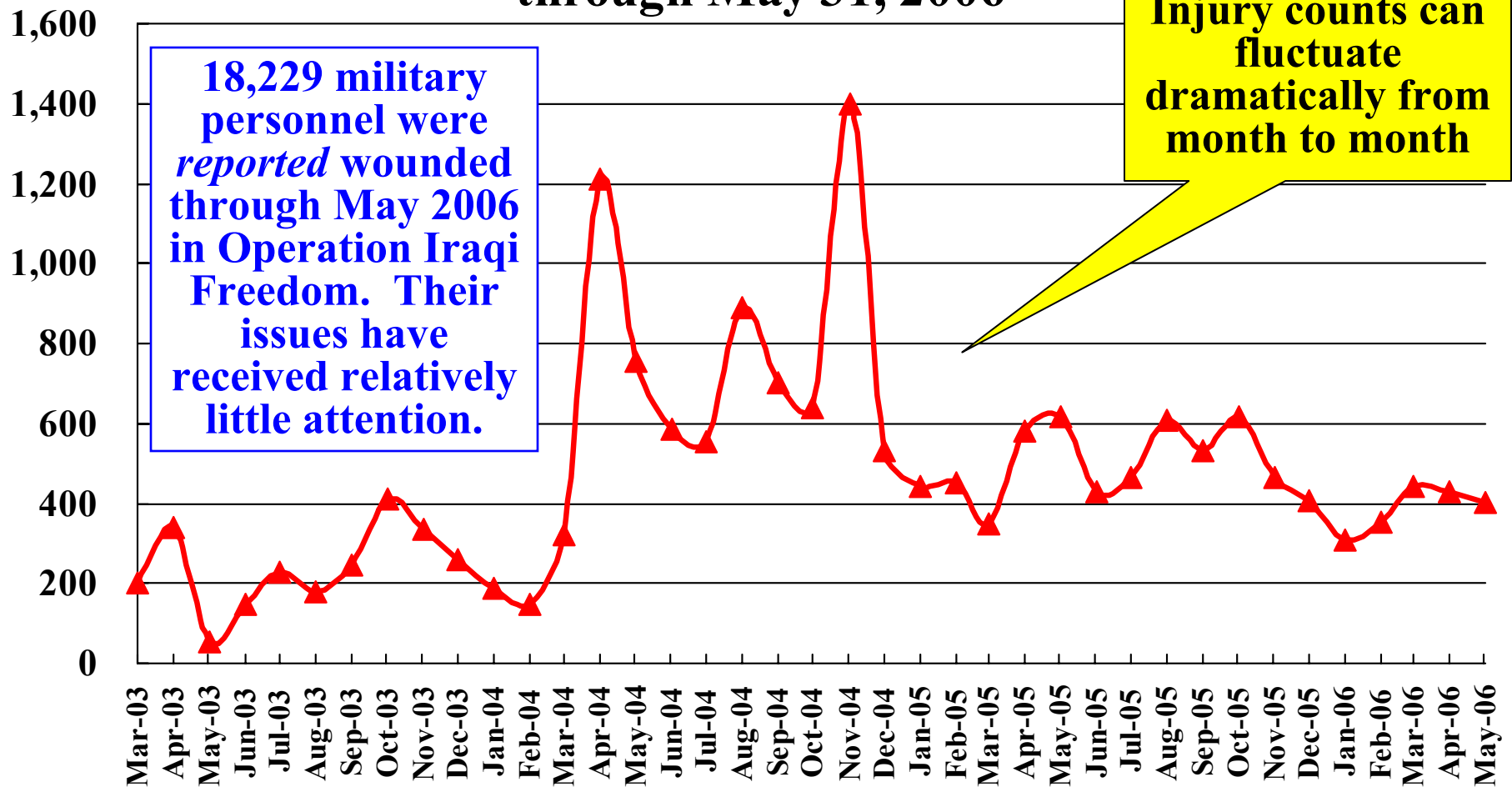


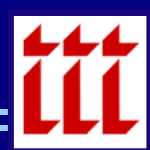
Source: Brookings Institution, *Iraq Index Archive*, updated June 5, 2006. *Through 6/16/06.



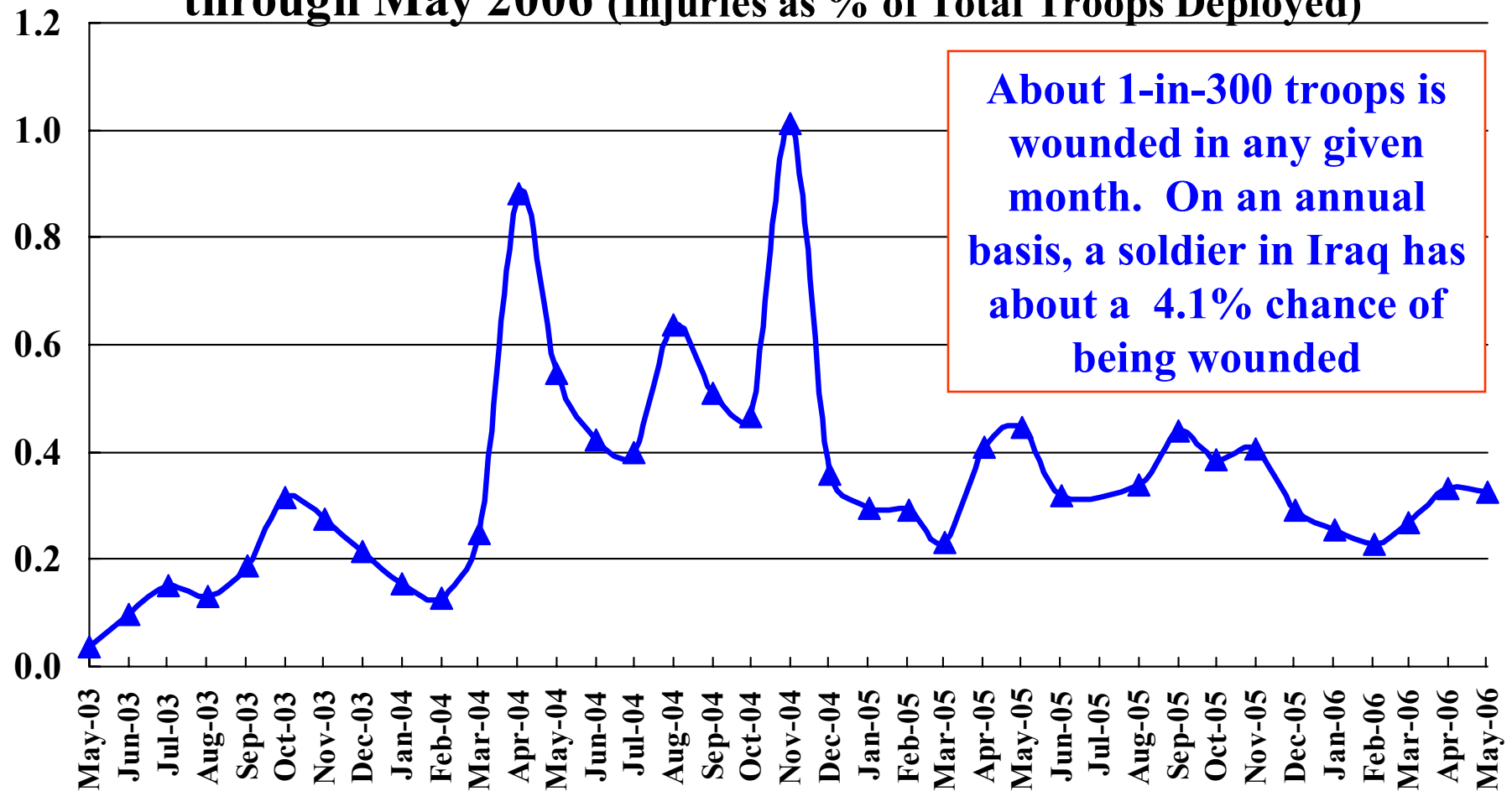
Non-Fatal Injuries to Military Personnel Deployed in Iraq

Injury Count from March 19, 2003 through May 31, 2006





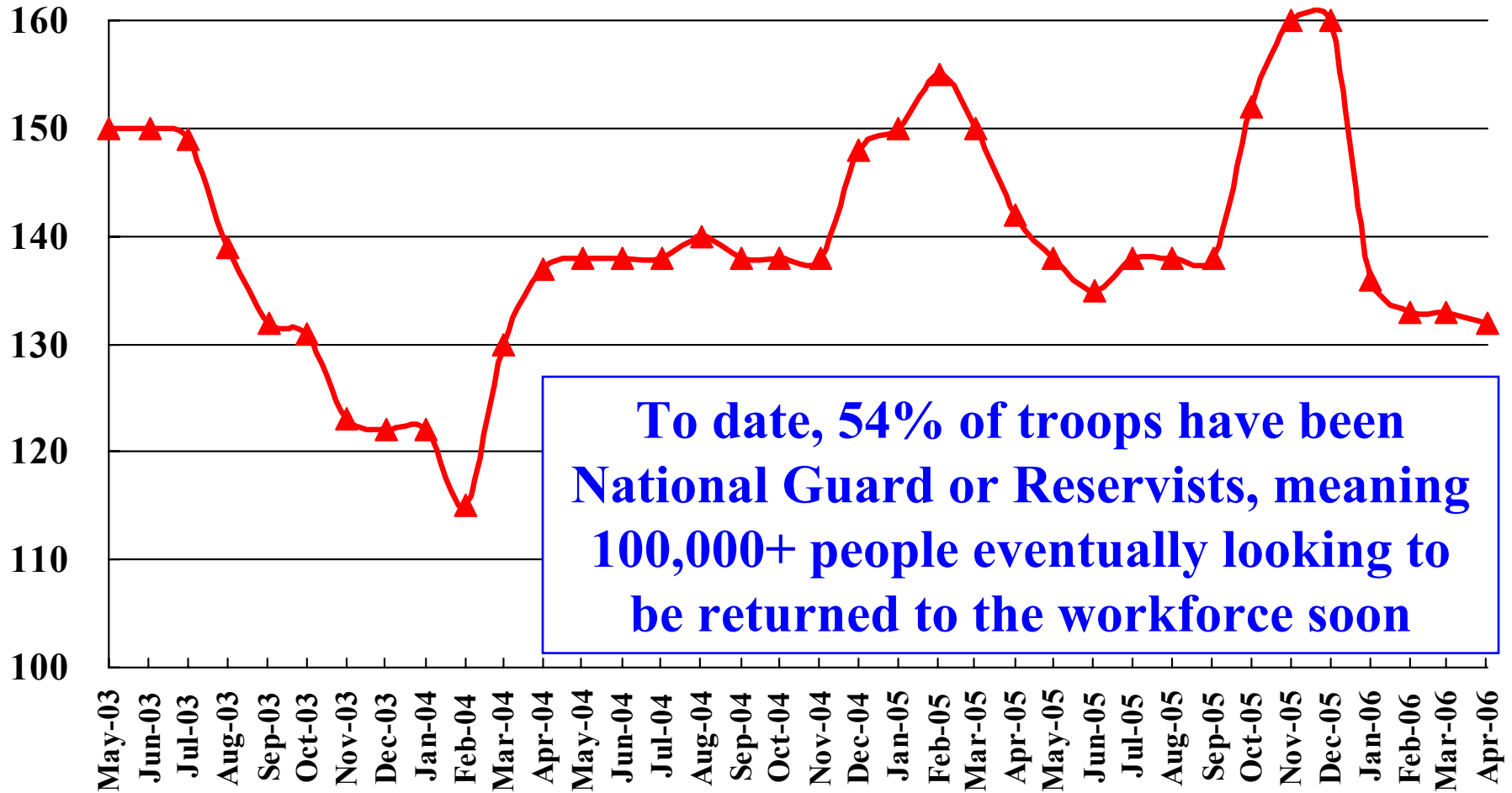
Injury Rate of Troops Deployed in Iraq May 2003 through May 2006 (Injuries as % of Total Troops Deployed)



About 1-in-300 troops is wounded in any given month. On an annual basis, a soldier in Iraq has about a 4.1% chance of being wounded



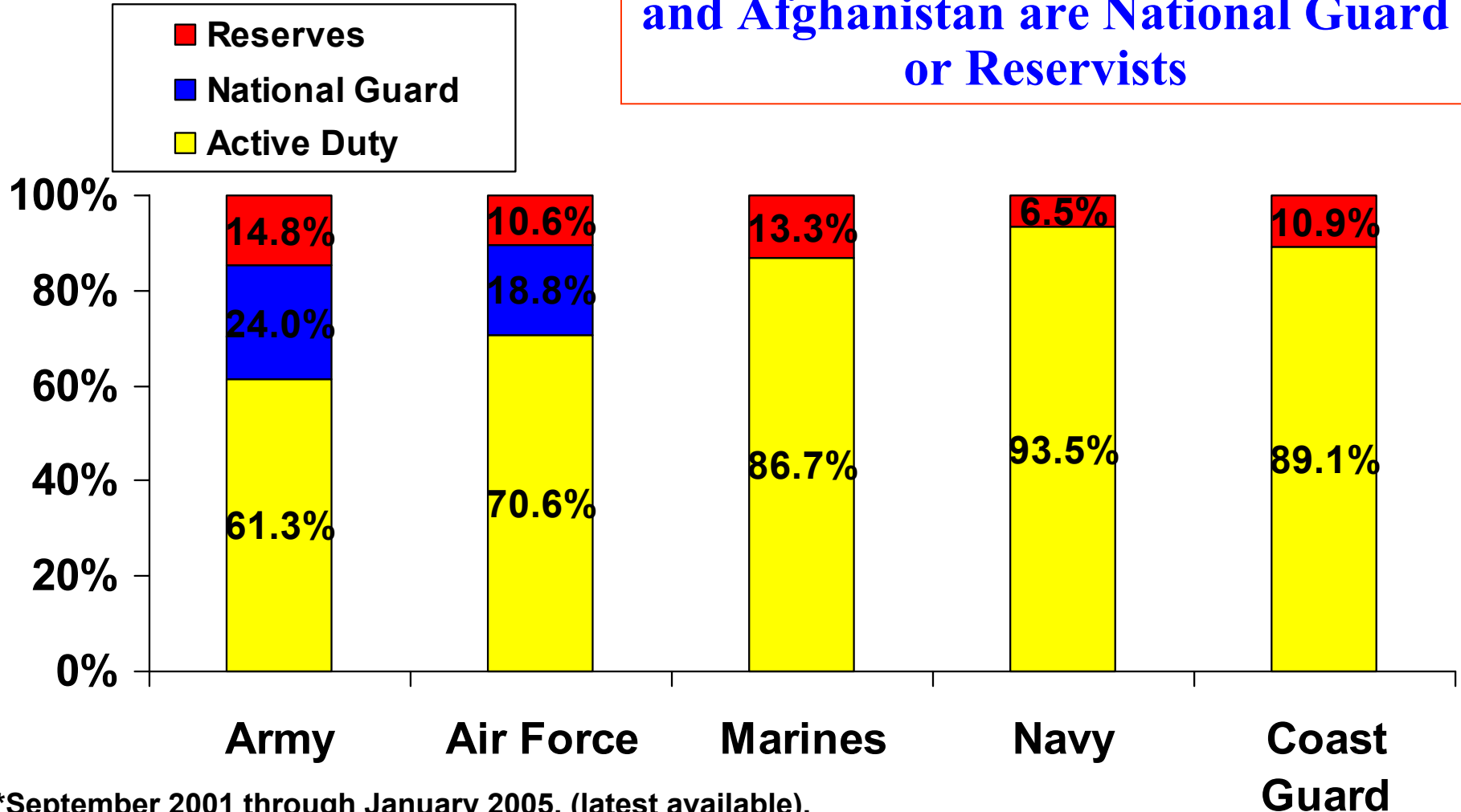
Troops Deployed from May 2003 through April 2006





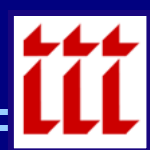
Status of Personnel Deployed to Iraq and Afghanistan*

Nearly 40% of Army and 30% of Air Force personnel deployed to Iraq and Afghanistan are National Guard or Reservists



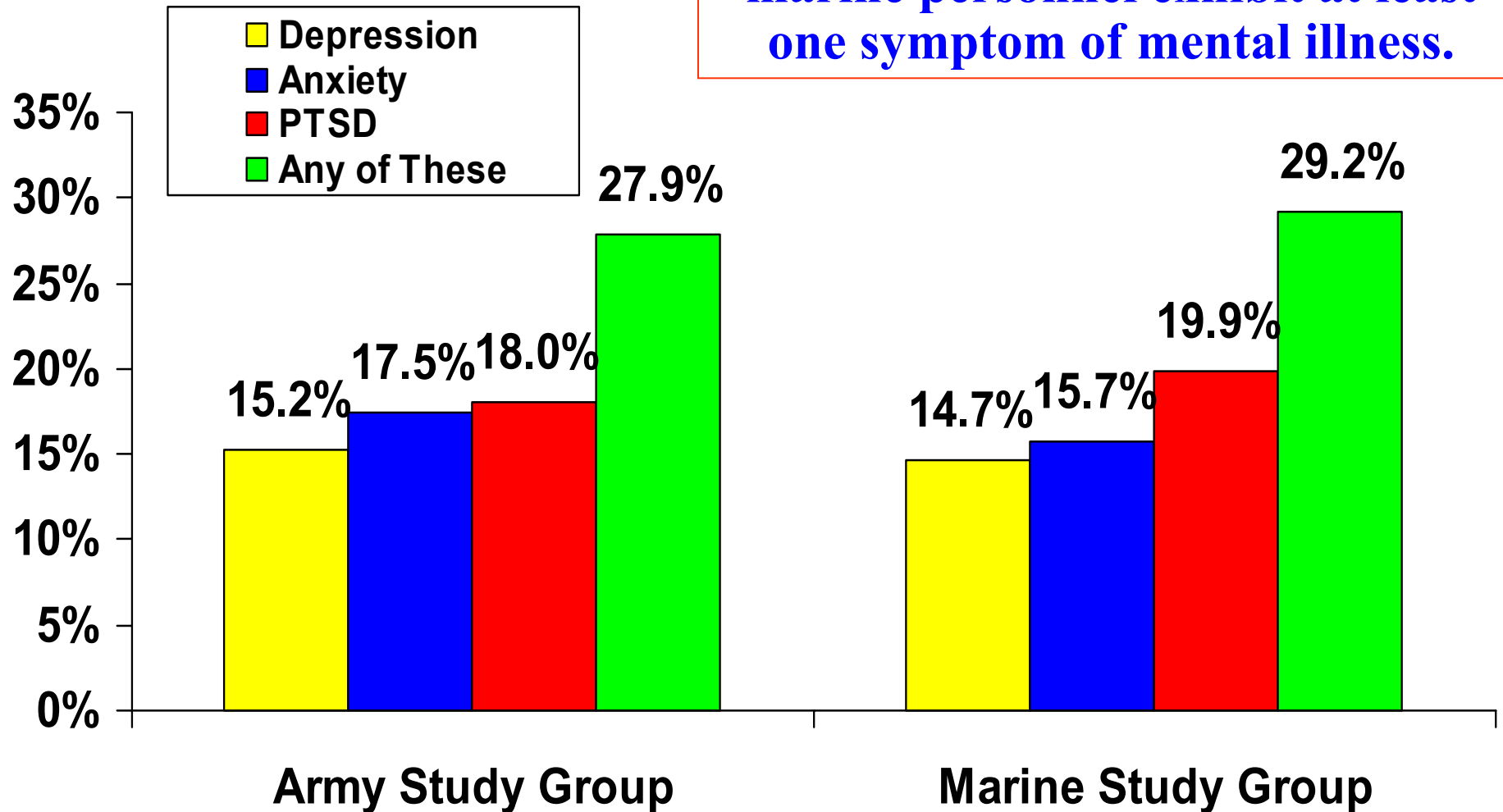
*September 2001 through January 2005. (latest available).

Source: Brookings Institution, *Iraq Index Archive*, updated June 5, 2006.



Reported Mental Health Problems Among Army & Marine Personnel After Iraq Deployment*

Nearly 30% of returning army and marine personnel exhibit at least one symptom of mental illness.



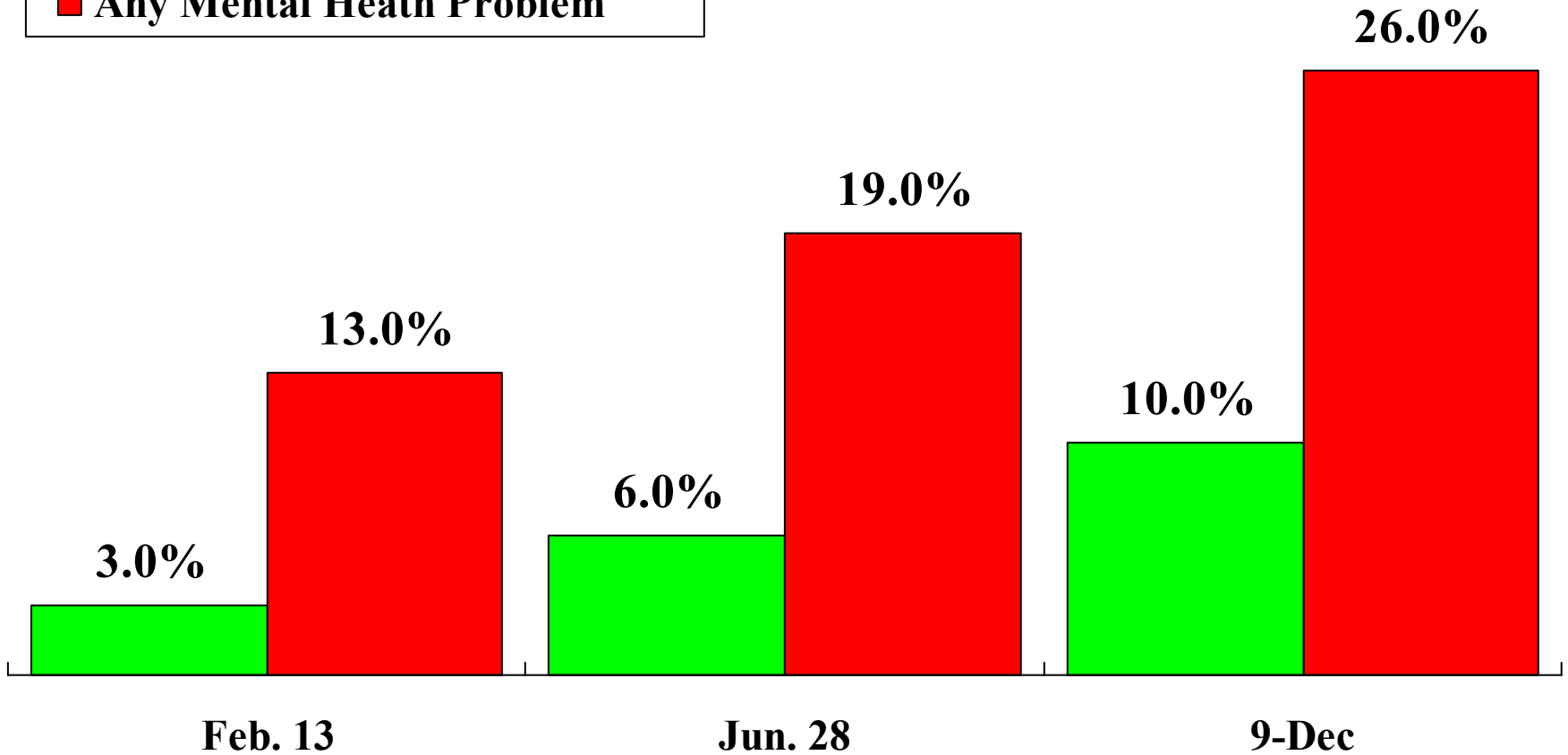
Source: Hoge, et al, "Combat Duty in Iraq and Afghanistan, Mental Health Problems, and Barriers to Care," *New England Journal of Medicine*, v. 351, no.1, July 1, 2004, pp. 13-22.



War Takes a Toll on Mental Health of Military

Incidence of PTSD more than tripled and other mental health problems doubled in 2004

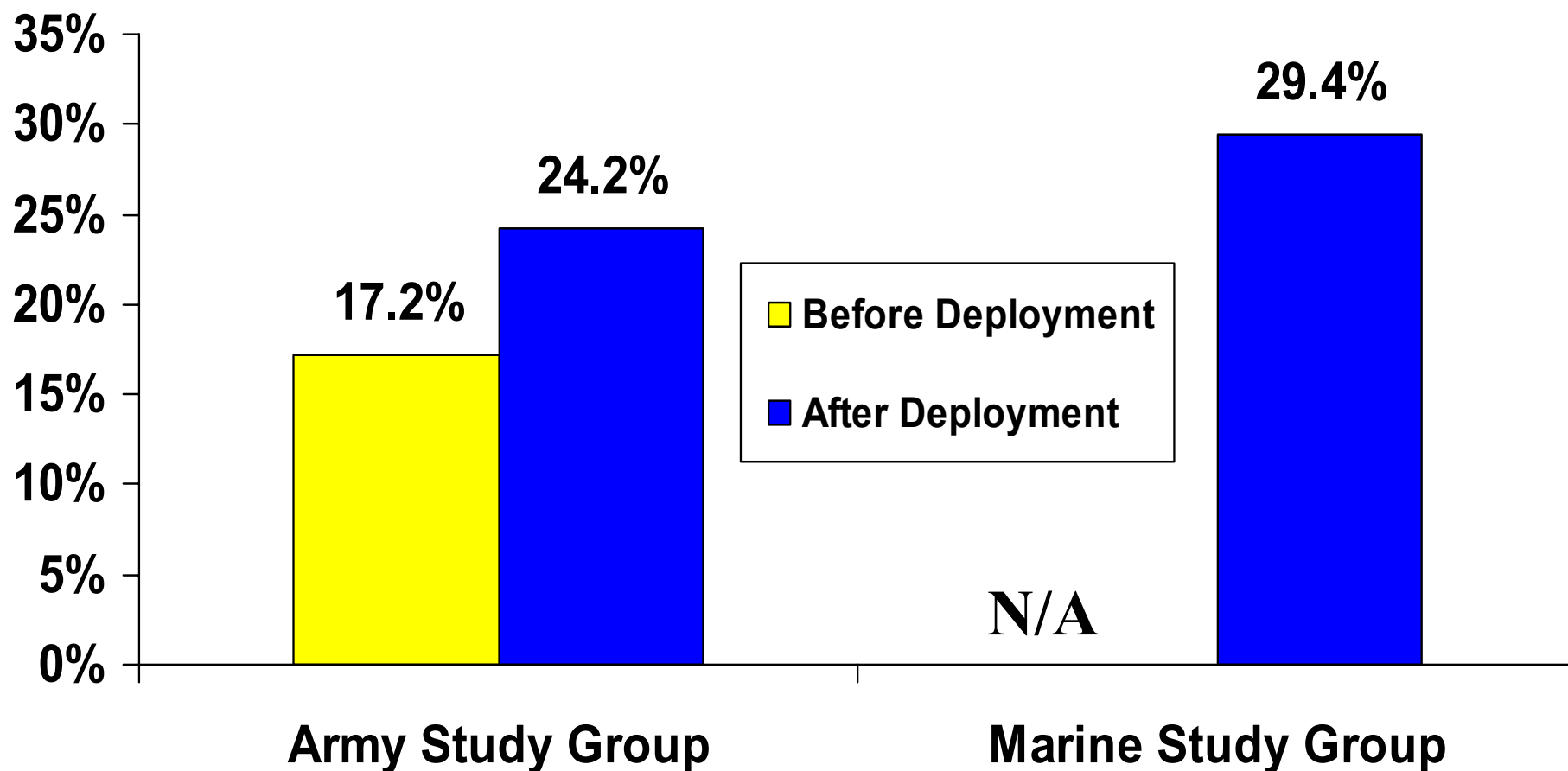
■ Post Traumatic Stress Disorder
■ Any Mental Health Problem



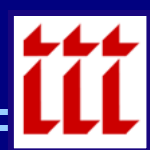


Reported Alcohol Misuse Among Army & Marine Personnel After Iraq Deployment

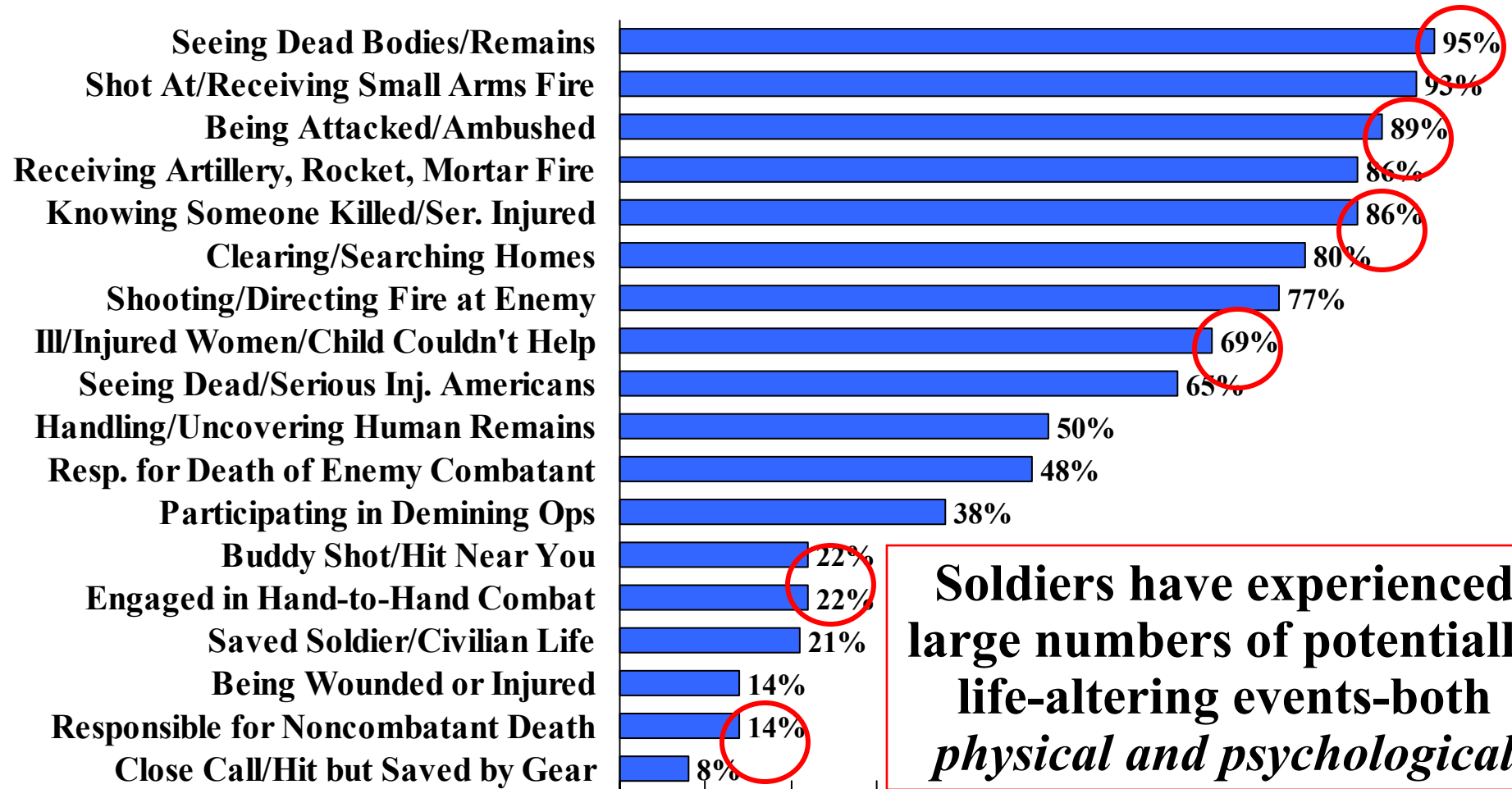
Sharp increase in alcohol misuse reported following deployment



Source: Hoge, *et al*, "Combat Duty in Iraq and Afghanistan, Mental Health Problems, and Barriers to Care," *New England Journal of Medicine*, v. 351, no.1, July 1, 2004, pp. 13-22.



Combat Experience of US Army Soldiers Deployed to Iraq



Soldiers have experienced large numbers of potentially life-altering events-both *physical and psychological*

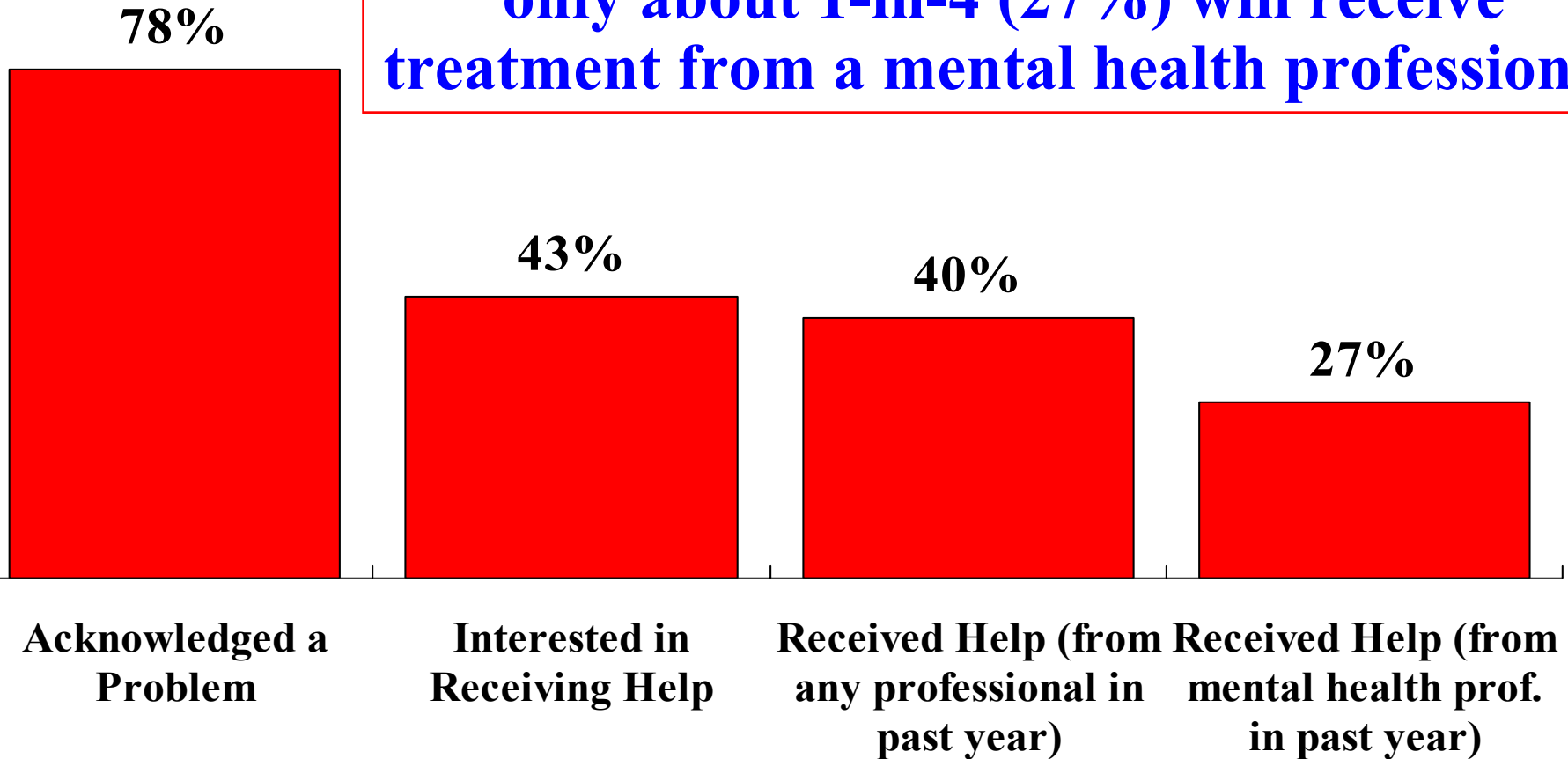
0% 10% 20% 30% 40% 50% 60% 70% 80% 90% 100%
%

Source: Hoge, et al, "Combat Duty in Iraq and Afghanistan, Mental Health Problems, and Barriers to Care," *New England Journal of Medicine*, v. 351, no.1, July 1, 2004, pp. 13-22.



Few Troops Who Need Mental Health Help Actually Receive It*

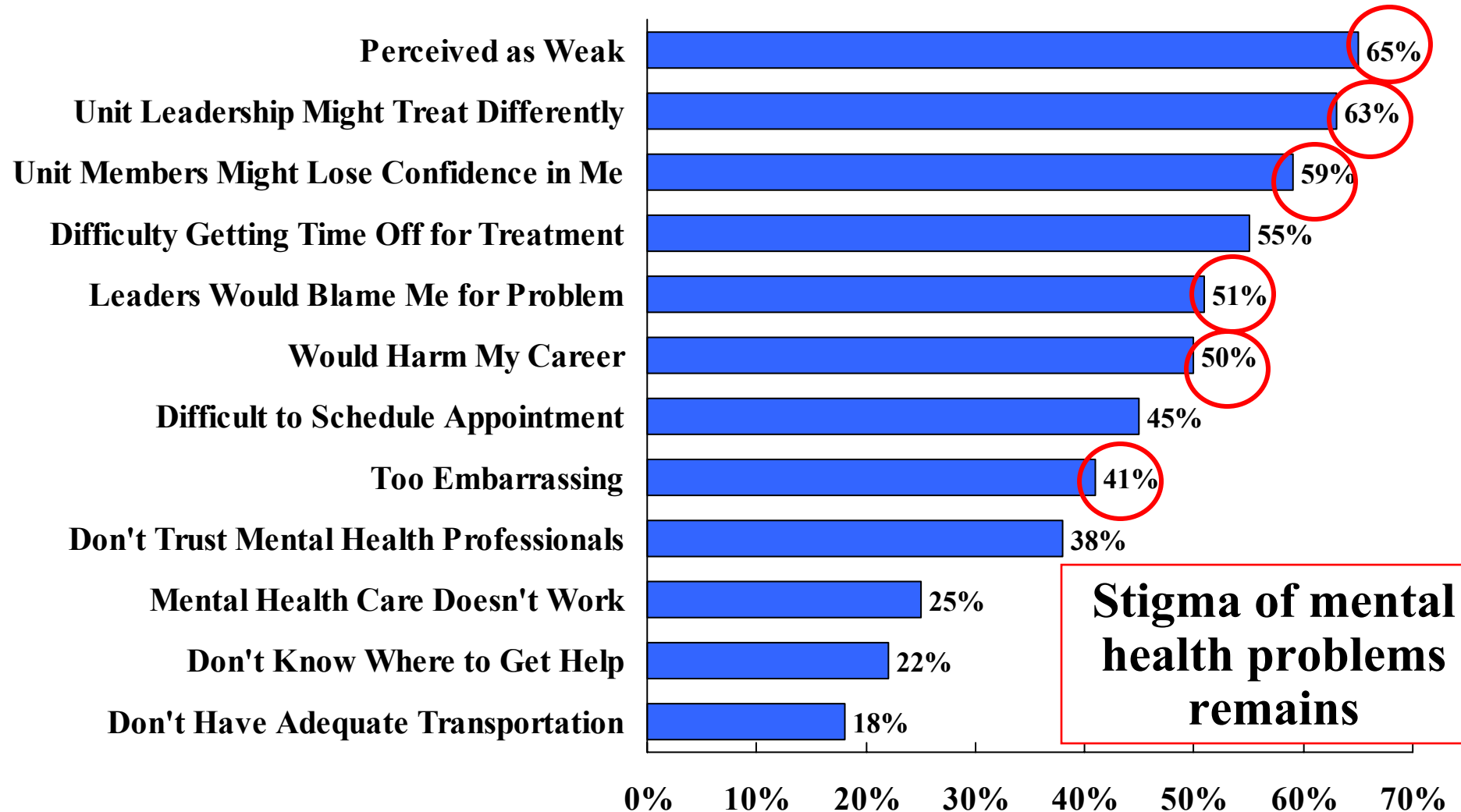
Among troops with signs of major depression, generalized anxiety or PTSD, only about 1-in-4 (27%) will receive treatment from a mental health professional



*Among troops whose survey response met screening criteria for major depression, anxiety or PTSD. Source: Hoge, *et al*, "Combat Duty in Iraq and Afghanistan, Mental Health Problems, and Barriers to Care," *New England Journal of Medicine*, v. 351, no.1, July 1, 2004, pp. 13-22.



Reasons Why Troops Don't Seek Treatment for Mental Health Issues



Source: Hoge, et al, "Combat Duty in Iraq and Afghanistan, Mental Health Problems, and Barriers to Care," *New England Journal of Medicine*, v. 351, no.1, July 1, 2004, pp. 13-22.



- **Be aware of physical injuries sustained in theater by returning/new employees who served in military combat roles or as contractors in war zones**
- **Be aware of possible mental health issues**
 - **Monitoring is probably wise, esp. in stressful jobs or jobs involving operation of heavy equipment and driving**
 - ***Most former military will have no major problem readjusting***
 - **Some will, so know how to get them help**
- **Most employers, claims people may mistake root cause of workplace. Not trained to recognize warning signs.**
- **Veteran's who were wounded or suffer from service-related mental health problems entitled to lifetime medical benefits from the Veterans Administration**
 - **NOTE: Many may be undiagnosed (barely ¼ see MH prof.)**
- **Be aware of local VA resources: <http://www.va.gov/rcs/>**
 - **VA Readjustment Counseling Service: 800-905-4675**



- **Congress passed DBA in 1941 to cover construction workers in lend/lease military bases outside continental US & broadened several times since**
- **DBA extends USL&H Act to civilian workers on bases overseas & contractors employees outside US**
 - **Administered by US Department of Labor**
- **Covers all US citizens employed on job site (e.g., Iraq), 3rd party and local nationals, subcontractors**



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