



**Eugene City Council**

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# EUGENE CITY COUNCIL AGENDA

January 21, 2015

12:00 PM CITY COUNCIL WORK SESSION

Harris Hall

125 East 8<sup>th</sup> Avenue

Eugene, Oregon 97401

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Meeting of January 21, 2015;  
Her Honor Mayor Kitty Piercy Presiding

**Councilors**

George Brown, President	Pat Farr, Vice President
Mike Clark	George Poling
Chris Pryor	Claire Syrett
Betty Taylor	Alan Zelenka

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**CITY COUNCIL WORK SESSION**

**Harris Hall**

12:00 p.m.    A.    **WORK SESSION:  
Multi-Unit Property Tax Exemption (MUPTE) Program Revisions**

12:45 p.m.    B.    **WORK SESSION:  
Report to City Council from Police Auditor**

*\*time approximate*

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# EUGENE CITY COUNCIL AGENDA ITEM SUMMARY




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## Work Session: Multi-Unit Property Tax Exemption (MUPTE) Program Revisions

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Meeting Date: January 21, 2015  
 Department: Planning & Development  
[www.eugene-or.gov](http://www.eugene-or.gov)

Agenda Item: A  
 Staff Contact: Denny Braud  
 Contact Telephone Number: 541-682-5536

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### ISSUE STATEMENT

This work session is a continuation of the January 20 work session discussion on potential Multi-Unit Property Tax Exemption (MUPTE) program reforms. The background information provided below is the same as was provided for the January 14 work session.

### BACKGROUND

The MUPTE program is enabled by state legislation and designed to encourage higher density housing and redevelopment in the core area and along transit corridors. The program provides a tax exemption for up to 10-years on qualified, new multi-unit housing investments that occur within a targeted area, meet program requirements, and are reviewed and approved by the council.

MUPTE works by lowering the operating cost enough to make a project financially feasible. The MUPTE program requires all proposed projects to undergo a “but-for” analysis to determine if the project would not go forward but for the tax exemption. The fundamental question has two parts: without the benefit of the tax exemption, would the project: 1) qualify for the bank debt, and 2) attract needed equity. For the bank, the important factors are value to secure the loan and cash flow to cover repayment. For the equity, the important factor is the level of return to the investor. Exempting the property taxes reduces the operating costs for the project, which ultimately improves the financial feasibility of a project by either putting the project in a position to qualify for bank financing or to attract the needed investor equity, or both in some cases.

The MUPTE program is currently suspended through February 28, 2015. MUPTE is a critical component to Envision Eugene. Coupled with Area Planning, it is the primary strategy for addressing future multi-family housing need. Envision Eugene is moving towards completion, with the formal adoption process anticipated for the spring of 2015.

In 2013, the council met to discuss the MUPTE program on April 22, May 13, June 24, July 24, and November 18. The council received input from key stakeholders at a workshop on May 22, 2013. In July 2013, the council highlighted the importance of:

- Aligning the MUPTE tool and availability of the tool with the goals of Envision Eugene.
- Consideration of affordable housing needs and the role that MUPTE can play in advancing this goal.

- Local hiring and the need to support local businesses and talent.
- Identifying community benefits and the need for MUPTE projects to advance community goals.
- Thoughtful and timely reforms that can be implemented to support redevelopment opportunities.

On November 18, 2013, the council added the West 11<sup>th</sup> area to the potential boundary and identified the following areas for further discussion: local hiring practices, financial gain cap, affordable housing (fee vs. providing units within the project), energy-efficient buildings, application scoring system, and percentage-of-median-income housing qualification. The council also expressed support for seeking stakeholder and community input opportunities.

At the April 14, 2014 work session, staff presented revised criteria based on input from these several stakeholder groups:

- Housing Policy Board committee for feedback specifically related to Affordable Housing criteria;
- Development-related fields including three developers, an appraiser, and a banker;
- Construction industry including general contractors, specialized trades, and union representatives;
- Human Rights Commission subcommittee; and
- Technical Resource Group (TRG) comprised of community members with expertise in real estate, land use, and business. This group provided independent review and a technical analysis that informed the March 2012 Envision Eugene Recommendations.

The council provided direction to reach out to the neighborhood organizations for input on the various program revisions under consideration. In May, staff held two meetings to collect feedback from neighborhood leaders on the changes the council reviewed in April. Based on those discussions, staff had several individual meetings with neighborhood leaders and then held a meeting on June 25 to collect feedback on a further revised concept. Neighborhood leaders were also able to complete two online surveys.

Following the April work session, the TRG invited councilors to learn more about the technical analysis and met with Mayor Piercy, Councilor Brown, Councilor Clark, Councilor Evans, and Councilor Syrett.

At the July 30 work session, the council reviewed the neighborhood leader feedback and continued the discussion. Staff provided an overview of a draft concept to activate the downtown area first, subject to new criteria, and proceed with other areas after neighborhood planning processes.

On October 15, the council directed the City Manager to schedule a public hearing on the draft program revisions. A public hearing on the ordinance was held on November 17, 2014: 16 people spoke.

### Additions to Draft Ordinance for Council Consideration

In addition to the provisions included in the draft ordinance (Attachment A), the council is asked to consider the following concepts based on public input:

- Regarding the MUPTE Review Panel, the two standing neighborhood representatives on the panel would be selected by the neighborhood associations. The two representatives from the MUPTE impacted neighborhood would be selected by the impacted neighborhood association.
- In addition to the project financial due diligence and annual reporting provided by the MUPTE Review Panel, an independent outside professional review of the projects financial pro-forma and annual financial statements will be required. This independent review will be incorporated into individual project application recommendations provided to the council and incorporated into the annual report to the council.
- The “opportunity siting” option which allows neighborhoods to come forward with a supported project for council consideration would be established as a three-year pilot program that would be reviewed by council prior to the end of the three-year period.
- A proportional affordable housing fee waiver would be provided to projects that include affordable units within the project.
- Waiving the affordable housing fee for projects in the West 11<sup>th</sup> or 6<sup>th</sup>/7<sup>th</sup> Trainsong Highway 99 Corridor areas as additional incentive for multi-unit housing.
- To the extent possible, inclusion of a provision that System Development Charges generated from a MUPTE project are used within the project’s neighborhood.

The potential MUPTE boundary is in Attachment B. Background information on the ordinance including a comparison between the draft and the suspended program; the rationale; and where various aspects are found in the ordinance is Attachment C. Follow-up information on several topics is included in Attachment D.

### **RELATED CITY POLICIES**

Utilization of the MUPTE program to stimulate new multi-unit housing development addresses many goals for Eugene and downtown, including:

#### *Envision Eugene Pillars*

- Promote compact urban development and efficient transportation options.
  - Integrate new development and redevelopment in the downtown, in key transit corridors and in core commercial areas.
  - Meet the 20-year multi-family housing need within the existing Urban Growth Boundary.
  - Make compact urban development easier in the downtown, on key transit corridors, and in core commercial areas.
- Provide housing affordable to all income levels.
- Plan for Climate Change and Energy Resiliency.
  - Make energy efficiency in buildings and vehicles the first line of action in reducing energy dependence and greenhouse gas emissions.
  - Align incentives, costs and City processes to promote resource efficient buildings, smaller homes and development towards the city core.

*Regional Prosperity Economic Development Plan*

- Strategy 5: Identify as a Place to Thrive - Priority Next Step - Urban Vitality
  - As we foster a creative economy, dynamic urban centers are an important asset. Eugene, Springfield and many of the smaller communities in the region recognize the importance of supporting and enhancing vitality in their city centers. Building downtowns as places to live, work and play will support the retention and expansion of the existing business community and be a significant asset to attract new investment. The cities of Eugene and Springfield will continue to enhance their efforts to promote downtown vitality through development and redevelopment.

*City Council Goal of Sustainable Development*

- Increased downtown development

*Eugene Downtown Plan*

- Stimulate multi-unit housing in the downtown core and on the edges of downtown for a variety of income levels and ownership opportunities.
- Downtown development shall support the urban qualities of density, vitality, livability and diversity to create a downtown, urban environment.
- Actively pursue public/private development opportunities to achieve the vision for an active, vital, growing downtown.
- Use downtown development tools and incentives to encourage development that provides character and density downtown.
- Facilitate dense development in the courthouse area and other sites between the core of the downtown and the river.

*Climate and Energy Action Plan*

- Buildings & Energy Section:
  - Objective 2: Reduce GHG emissions from new construction by 50 percent by 2030.
  - Action 2.2: Increase incentives for highly energy-efficient new buildings aiming toward net zero energy and carbon neutral buildings.

**COUNCIL OPTIONS**

1. Adopt the ordinance as proposed in Attachment A.
2. Consider changes to the ordinance included in Attachment A, and direct staff to bring back an updated ordinance for council consideration.
3. Take no action at this time, and continue discussions at a future work session.

**CITY MANAGER'S RECOMMENDATION**

The City Manager recommends that the additions to the draft ordinance as outlined above, and other changes supported by council at this work session, be brought back in an updated ordinance for council consideration.

**SUGGESTED MOTION**

Move to direct the City Manager to bring back the draft ordinance included in Attachment A with the proposed additions outlined in this Agenda Item Summary.

**ATTACHMENTS**

- A. Draft Ordinance
- B. Potential MUPTE Boundary
- C. Background Information on Draft Ordinance
- D. Follow-Up Information

**FOR MORE INFORMATION**

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Staff E-Mail: [denny.braud@ci.eugene.or.us](mailto:denny.braud@ci.eugene.or.us)





## ATTACHMENT A

## ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE CONCERNING MULTIPLE-UNIT PROPERTY TAX EXEMPTIONS;  
AMENDING SECTIONS 2.945 AND 2.947 OF THE EUGENE CODE, 1971; AND  
ADDING SECTION 2.946 TO THAT CODE.**

**THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:**

**Section 1.** Section 2.945 of the Eugene Code, 1971, is amended to provide as follows:

**2.945      Multiple-Unit Housing – Property Tax Exemption.**

- (1) The provisions of ORS 307.600 to 307.637 enable cities to grant local property tax exemptions for multiple-unit housing located in core and transit oriented areas designated by the city. There is a need and demand for better housing at rental rates or sale prices accessible to a broad range of the general public in the core and transit oriented areas which is not likely to be produced without this incentive. This incentive is intended to:
- (a) Stimulate the construction of transit supportive multiple-unit housing in the city's core and transit oriented areas to improve the balance between the residential and commercial nature of those areas, and to ensure full-time use of the areas as places where citizens of the community have an opportunity to live as well as work;
  - (b) Encourage the development of vacant or under-utilized sites in core and transit oriented areas, rather than sites where sound or rehabilitable multiple-unit housing exists;
  - (c) Encourage the development of multiple-unit housing, with or without parking, in structures that may include ground level commercial space;
  - (d) Encourage the development of multiple-unit housing, with or without parking, on sites with existing single-story commercial structures;
  - (e) Encourage the development of multiple-unit housing, with or without parking, on existing surface parking lots; and
  - (f) Preserve existing publicly assisted housing that is affordable to low income persons by providing the incentives authorized in ORS 307.600 to 307.637 to existing multiple-unit housing that is subject to a low income housing assistance contract with an agency or subdivision of this state or the United States.
- (2) The provisions of ORS 307.600 to 307.637 are hereby adopted as the city's multiple-unit housing property tax exemption program. [~~Sections 2.945 and 2.947 of this code shall apply in the downtown area depicted on Map 2.945(2) attached to Ordinance 20479 and appended to chapter 2 of this code.~~]
- (3) Applications for property tax exemption hereunder shall be filed with the city manager [~~on or before February 1 immediately preceding the first assessment year for which exemption is requested~~] and shall be accompanied by an application fee. The application shall **contain the information required by, and** be processed in accordance with, [~~standards and guidelines adopted by~~]

administrative rules *adopted by* ~~[of]~~ the city manager *in the manner described in section 2.019 of this code. Prior to filing the application, the applicant, including at least one of the applicant's principals, must have arranged for and attended one public engagement opportunity with residents in the neighborhood, including the board of any city-recognized affected neighborhood association, and then included in the application copies of comments received from the meeting or documentation of the applicant's attempt to solicit comments.*

- (4) *Following receipt of a completed application, the city manager shall convene the review panel authorized by subsection (13) of this section to review the application. The review panel shall make a recommendation to the city manager about whether the application meets the criteria in section 2.946, and provide any other comments about the project's financial projections. After the city manager receives the review panel's recommendation and comments, but in no event later than 135 days following submission of the application, the city manager shall provide the council with the city manager's recommendation on the application.*
- ~~(4.5)~~ Upon receipt of the city manager's written recommendation on an application, the council shall consider the application, the city manager's written recommendation, and any written comments submitted ~~[during the 30 day comment period]~~ on the application ~~[at its next scheduled meeting]~~. If the council fails to act on an application ~~[which has been timely referred to it as provided in the standards and guidelines]~~ within 180 days from the date it was filed, the application shall be deemed approved and processed thereafter in accordance with subsection ~~[(9)]~~ **(10)** of this section.
- ~~(5.6)~~ At the meeting at which the city manager's recommendation on an application is considered, *or at a subsequent meeting*, the council shall adopt a resolution approving the application and granting the property tax exemption, or adopt a resolution disapproving the application and denying the property tax exemption.
- ~~(6.7)~~ ~~[In order to approve an application, the council must find that:]~~ *The council shall approve an application if the council determines that the criteria described in section 2.946 of this code have been met. The resolution approving the exemption shall set forth any specific conditions of approval, as well as the length of the tax exemption. The exemption may not include the land or any improvements not a part of the multiple-unit housing. The exemption may include parking constructed as part of the multiple-unit housing construction, addition or conversion, and commercial property to the extent that the commercial property is a required design or public benefit element of a multiple-unit housing construction, addition or conversion approved by the city. In the case of a structure to which stories or other improvements are added or a structure that is converted in whole or in part from other use to dwelling units, only the increase in value attributable to the addition or conversion may be exempt from taxation.*
- ~~[(a)]~~—The project will provide multiple-unit housing of five or more units;
- ~~[(b)]~~—The project is located within the boundaries of the downtown areas described in subsection (2) above;
- ~~[(c)]~~—The proposal could not financially be built “but for” the tax exemption;
- ~~[(d)]~~—The applicant solicited comments from city-recognized affected neighborhood associations;

- (e) ~~The requirements in the standards and guidelines related to proximity to historic resources have been satisfied;~~
- (f) ~~The applicant has complied with the provisions of the standards and guidelines;~~
- (g) ~~In the case of the construction of, or the addition or conversion to multiple-unit housing:~~
- ~~1. The construction, addition or conversion will be completed on or before January 1, 2022;~~
  - ~~2. The owner has agreed to include in the construction, addition or conversion, as a part of the multiple-unit housing, one or more public benefits, including but not limited to commercial uses of a portion of the multiple-unit housing structure, open spaces, parks and recreational facilities, common meeting rooms, child care facilities, transit amenities and transit or pedestrian design elements, or benefits otherwise specified in the standards and guidelines this subsection;~~
  - ~~3. The proposed construction, addition or conversion project is, or will be at the time of completion, in conformance with all local plans and planning regulations, including special or district-wide plans developed and adopted pursuant to ORS chapters 195, 196, 197, 215 and 227, that are applicable at the time the application is approved;~~
- (h) ~~In the case of multiple-unit housing subject to a low income housing assistance contract with an agency or subdivision of this state or the United States,~~
- ~~1. The application for exemption was made on or before January 1, 2022;~~
  - ~~2. It is important to the community to preserve the housing as low income housing and it is probable that the housing would not be produced as or remain low income housing without the exemption being granted;~~
- (i) ~~The multiple-unit housing is not designed for, and will not be used as transient accommodations; and~~
- (j) ~~Granting the application is in the public interest. In making this determination, council shall consider, among other things, the number of points awarded based on the public benefit scoring system contained in the standards and guidelines.]~~
- (78) [Unless the council makes each of the findings required by subsection (6) of this section] ***If the council determines that one or more of the criteria in section 2.946 of this code are not met***, the council shall deny the application. [In addition to the owner's name and address, and a legal description or the assessor's property account number for the subject multiple-unit housing, the resolution approving the application shall contain the above findings and set forth the specific conditions of approval or exclusions therefrom and specify the percentage and duration of the exemption. A] ***The*** resolution denying an application shall set forth the specific reasons for denial.
- (89) The city manager shall forward to the applicant a copy of the resolution adopted by the council within 10 days from the date the council acts on the application.[, and] ***In addition***, on or before April 1 [following approval] ***immediately preceding the first tax year for which the exemption is requested, the city***

**manager** shall file with the county assessor a copy of the resolution approving an application.

**(910)** With respect to an application deemed approved through inaction of the council under subsection ~~[(4)]~~ **(5)** of this section, ~~[on or before April 1]~~ following the expiration of the 180-day period, **on or before April 1 immediately preceding the first tax year for which the exemption is requested**, the city manager shall file with the county assessor an administrative order containing the same findings and information as required to be set forth in a resolution approving an application and forward a copy thereof to the applicant. ~~(1011)~~ In the case of a structure to which stories or other improvements are added or a structure that is converted in whole or in part from other use to dwelling units, only the increase in value attributable to the addition or conversion may be exempt from taxation.

~~(1112)~~ Notwithstanding subsection (6) of section 2.947 of this code, if the multiple-unit housing is or becomes subject to a low income rental assistance contract with an agency of this state or the United States, the city may extend the exemption through June 30 of the tax year during which the expiration date of the contract falls.

**(13) Program Review Panel.**

**(a) The city manager shall create a program review panel to provide third-party review of individual applications and of the program. The panel shall be comprised of the following members:**

- 1. Two at-large neighborhood representatives nominated by the mayor;**
- 2. For individual applications, an additional two neighborhood representatives from the neighborhood in which a proposed project is located; and**
- 3. Four technical professionals such as architects, green building specialists, lenders, laborers, or developers.**

**In order to be eligible to serve on the review panel, members must sign a confidentiality agreement in a form approved by the city manager.**

**(b) The review panel shall:**

- 1. Review project applications, with emphasis on analyzing the project's financial projections and compliance with the criteria contained in section 2.946; and**
- 2. Assist the city manager in preparing annual reports on the program that will also address the program volume cap.**

**Section 2.** Section 2.946 of the Eugene Code, 1971, is added to provide as follows:

**2.946 Multiple-Unit Housing – Threshold Criteria and Public Benefits.**

**(1) Boundaries.**

**(a) Sections 2.945 through 2.947 of this code shall initially apply only in the downtown area as depicted on Map 2.945(2) attached to Ordinance \_\_\_ [insert Ordinance number] and appended to chapter 2 of this code.**

**(b) The council may expand the boundaries covered by sections 2.945 through 2.947 of this code to include one or more of the areas listed in this subsection (b) by adopting a resolution activating the area under either of the following circumstances:**

- 1. Area planning is completed for the neighborhood; or**

2. *City-wide code amendments are approved that address the spatial transition between commercial and multi-family zoned properties with single-family zoned properties and an official neighborhood association requests activation.*
- The areas that the council may approve pursuant to this subsection are: Mid-town; South Willamette; West 11<sup>th</sup>; 6<sup>th</sup>/7<sup>th</sup> Trainsong Highway 99 Corridor; Valley River Center commercial area; North Franklin; South River Road; Mid-River Road; North River Road; South Coburg Road; Mid-Coburg Road; and North Coburg Road. Any resolution approving one or more of these areas shall have a map appended to it identifying the precise boundaries of the area being approved.*
- (c) *For property located in an area listed in subsection (b) above that has not yet been approved by resolution, a property owner may request, if but only if jointly requested by the official neighborhood association board, that council approve an exemption under sections 2.945 through 2.947 of this code for the specific property. If the property is not part of a city-recognized neighborhood, then a request may proceed only if the city notifies all owners and occupants of property located within 500 feet of the property to be developed and no owner or occupant submits to the city manager any substantive objection. In addition, no request under this subparagraph (c) may be approved by council unless:*
1. *All other requirements of sections 2.945 through 2.947 of this code have been met, and*
  2. *The council determines that it is in the public interest to grant the exemption even though the area itself has not yet been activated pursuant to subsection (b) above.*
- (2) **Criteria for Approval.** *No exemption may be approved under subsection (7) of section 2.945 of this code unless all of the following criteria are met:*
- (a) **Eligible Project Types.** *The project will provide multiple-unit housing of five or more new units through new construction, an addition to an existing structure, or a conversion of a structure from another use to dwelling units. Notwithstanding the preceding sentence, no exemption may be granted for a project designed for the leasing of individual rooms or beds, rather than entire apartment units, or a project otherwise designed primarily for individuals attending college.*
- (b) **Project Need.** *The proposal could not financially be built “but for” the tax exemption. The burden is on the applicant to demonstrate that absent the exemption, the project would not be financially viable. If the projected overall average annual rate of return for the project for the maximum 10-year tax exemption period is:*
1. *Less than or equal to 10%, the project is eligible for the maximum 10-year exemption.*
  2. *Greater than 10%, then the term of the exemption shall be decreased by the number of years necessary to bring the rate of return down to 10%.*
- (c) **Compact Urban Development.** *For the downtown area, the project meets one of the following density requirements:*
1. *Residential zones: 175% of minimum density for the zone.*

2. **Form-based zones with height limit of three or four stories: 30 units per acre.**

*For any other area that council activates under subsection (1)(b) above, density requirements shall be stated in the area plan or other process that activates the area.*

- (d) **The project complies with any requirements in administrative rules adopted by the city manager related to proximity to historic resources.**

- (e) **Project Design and Compatibility.**

1. **The applicant has included a detailed description of the proposed project and graphic information including site plans and elevations containing sufficient detail to demonstrate that the project addresses a set of basic design principles in the context of the project location. The city manager shall adopt as part of the administrative rules to implement these sections a more detailed description of the required design principles, including the scale, form, and quality of the building; the mix of project elements; and the relationship to the street and surrounding uses**
2. **Compliance with the project design elements that were reviewed at the time of council approval is a condition of approval of the exemption, except that the city manager may approve a deviation from those design elements if the city manager determines in writing that the deviations provide the same or greater degree of adherence to the design principles.**

- (f) **Green Building.**

1. **Green building requirements apply only to the residential occupancy areas and common areas such as hallways, stairwells, centralized HVAC or hot water heating, and laundry facilities. The requirements do not apply to the commercial areas or ancillary amenities such as parking garage, swimming pools, and recreation centers.**
2. **The project will perform at least 10% more efficiently than the performance established in the Oregon Energy Efficiency Specialty Code (OEESC) or similar code adopted by the State of Oregon.**
  - a. **Green building requirements for one to three story multiple-family buildings are as follows:**
    - (1) **Obtain LEED v4 for homes low-rise multiple-family basic certification and modeled at least 10% above current OEESC;**
    - (2) **Obtain earth advantage multiple-family silver level certification and provide a commissioning report; or**
    - (3) **Obtain NW Energy Star certification through the Eugene Water and Electric Board program and provide a commissioning report.**
  - b. **Green building requirements for four stories and above multiple-family buildings are as follows:**
    - (1) **Obtain LEED for homes midrise basic certification and modeled at 10% above current OEESC; or**
    - (2) **City review of the project demonstrates that:**

- (A) *Model building energy performance, utilizing the LEED for homes midrise energy modeling methodology, shows that the building will perform 10% above current OEESC performance;*
  - (B) *The building is constructed to modeled plans;*
  - (C) *Commissioning report has been provided prior to issuance of certificate of occupancy; and*
  - (D) *Applicant commits to working with city to report multiple-family occupancy energy use data to city for the tax exempt period.*
3. *Projects that will provide onsite parking are required to install conduit for future electric vehicle charging stations.*
- (g) **Local Economic Impact Plan.**
- 1. *The applicant must provide a plan that provides for more than 50% of the dollar volume of the combined professional services and construction contracts to include local firms. "Local firm" means a business which is based in Lane County.*
  - 2. *The applicant must ensure that qualified minority and women business enterprises have an equitable opportunity to compete for contracts and subcontracts.*
  - 3. *The city manager shall include in the administrative rules adopted to implement sections 2.945 through 2.947 of this code provisions that:*
    - a. *Identify additional requirements for the local economic impact plan, including definitions and exceptions such as when trades are not available locally;*
    - b. *Enable qualified minority and women business enterprises to have an equitable opportunity to compete; and*
    - c. *Ensure that the developer complies with wage, tax and licensing laws in the development of the project and posts information about the city's rights assistance program.*
- (h) *In the case of the construction of, or the addition or conversion to multiple-unit housing, the construction, addition or conversion will be completed on or before January 1, 2022.*
- (i) *In the case of multiple-unit housing subject to a low income housing assistance contract with an agency or subdivision of this state or the United States,*
- 1. *The application for exemption was made on or before January 1, 2022;*
  - 2. *It is important to the community to preserve the housing as low income housing and it is probable that the housing would not be produced as or remain low income housing without the exemption being granted.*
- (j) *The multiple-unit housing is not designed for, and will not be used as transient accommodations.*
- (3) **Criteria for Inclusion of Additional Public Benefits.** *If the applicant fails to qualify for the maximum 10-year tax exemption due to subsection (2)(b) of this section, the applicant may propose including additional public benefits from the following list to increase the term of the exemption up to the*

*maximum of 10 years. The city manager shall ask the review panel to review and comment on whether the applicant's proposal merits one or more additional years of exemption, following which the city manager shall make a recommendation to council. The council shall review that information and then determine, in its discretion, whether the proposal merits one or more additional years of exemption, and if so, how many.*

- (a) **Documented Local Economic Impact.** The extent to which the project meets the goal established in the local economic impact plan described in subsection (2)(g) of this section, demonstrates solicitation of bids from minority and women business enterprises, and commits to completing certified payroll.*
- (b) **Location.** Project is located within a United States Department of Housing and Urban Development low-moderate income area or on a brownfield site, or projects that include the redevelopment of a valuable historic resource.*
- (c) **Project Features.** The extent to which the project incorporates the following features:
  - 1. Payment of an affordable housing fee that exceeds the amount required by subsection (4)(c) of this section;*
  - 2. Exceed the green building requirements described in subsection (2)(f) of this section;*
  - 3. Provision of Americans with Disabilities Act (ADA) accessible dwelling units beyond those required by the building code;*
  - 4. Provision of dwelling units available for home ownership;*
  - 5. Inclusion of open space, community gardens, or gathering space that is accessible to the surrounding community;*
  - 6. Inclusion of ground floor commercial/retail space that addresses a neighborhood need;*
  - 7. Design excellence and neighborhood compatibility;*
  - 8. Provision of embedded or structured parking;*
  - 9. Provision of transportation options, including bus passes, car share, bike share, bus shelter, pedestrian connections, meeting Leadership in Energy & Environmental Design (LEED) v4 "green vehicle" credit description, and minimum parking where appropriate; and*
  - 10. Other features identified by the neighborhood through the engagement process described in subsection (4)(b) of this section.**
- (4) **Additional and On-Going Obligations of Project Approved for Exemption.**
  - (a) Following approval of an exemption under section 2.946 of this code, the city manager shall monitor the development of the project to ensure that the project complies with the requirements of sections 2.945 through 2.947 of this code, the administrative rules adopted thereunder, and any other conditions of approval of the exemption.*
  - (b) During the developer's design process and before the final design drawings are completed, the developer shall hold at least one neighborhood engagement opportunity to allow members of that neighborhood to provide comments on the proposal. At least one of the applicant's principals must attend that meeting. In addition, once the final design is completed and before it is submitted for permits, the**



- developer shall allow the neighborhood an opportunity to review and comment on that final design.*
- (c) *As an additional required public benefit of the exemption, the developer shall pay to the city an affordable housing fee in the amount of 10% of the total exemption for the 10 year tax exempt period. The fee may be paid annually in years 3 through 10 of the exemption, or may be paid up front. Funds received by the city under this paragraph shall be used for affordable housing and emergency shelter.*
- (d) *During the exemption period, the project's owner must annually submit the following documents prepared in a format specified by and consistent with the requirements in administrative rules adopted pursuant to section 2.019: audited financial statements; tax returns; and 10-year operating cash flow with to-date rate of return. In addition, the first year's reporting shall include the home city or zip code of the construction labor workers.*

**Section 3.** Section 2.947 of the Eugene Code, 1971, is amended to provide as follows:

**2.947 Multiple-Unit Housing - Termination of Approval, Review.**

- (1) *Except as provided in subsection (8) of this section, [A]after a resolution approving an application has been filed, if the city manager finds that:*
- (a) *Construction of multiple-unit housing was not completed within the time specified in the resolution, and no extensions as provided in subsection (5) hereof have been granted, or*
- (b) *The applicant, **developer or other owner of the project** has failed to comply with the provisions of ORS 307.600 to 307.637[,] **or** the provisions of this code **or administrative rules adopted thereunder**, [~~any provisions of the standards and guidelines adopted by the city manager,~~] or*
- (c) *The applicant, **developer or other owner of the project** has failed to comply with any conditions imposed in the resolution approving the application **and the city manager has not determined in writing that project design deviations provide the same or greater degree of adherence to the design principles that council approved for the project**, or*
- (d) *Construction of multiple-unit housing was not completed on or before January 1, 2022, or*
- (e) *In the event units within the development are sold individually, a unit owner fails to comply with applicable requirements described in paragraphs (b) or (c) of this section,*
- the city manager shall notify the council; the owner of the property, at the owner's last known address; and any known lender, at the lender's last known address, of the manager's intention to recommend to the council that the exemption be terminated. The notice shall clearly state the reasons for the proposed termination, and shall require the owner to appear before the council, at a time specified in the notice, which shall not be less than 20 days from the date the notice was mailed, to show cause, if any exists, why the exemption should not be terminated.*
- (2) *If the owner fails to appear and show cause why the exemption should not be terminated, the city shall further notify every known lender of the owner's failure to appear and shall allow the lender a period of not less than 30 days, beginning*

with the date that the notice of failure to appear and show cause is mailed to the lender, to cure any noncompliance or to provide adequate assurance that the noncompliance will be remedied.

- (3) If the owner fails to appear before the council at the time specified in the notice, or if the owner appears and fails to show cause why the exemption should not be terminated, and a lender fails to cure or give adequate assurance that any noncompliance will be cured, the council shall adopt a resolution terminating the exemption, which shall contain its findings in support thereof. Copies of the resolution shall be filed with the county assessor and mailed to the property owner, at the owner's last known address, and to any lender at the lender's last-known address, within 10 days from the date adopted. If a determination is made that the exemption should continue as previously granted, the council shall enter written findings of record in support of the continued exemption and forward a copy thereof to the property owner and to any lender within 10 days from the date of the hearing.
- (4) All reviews of council action in denying, approving, or terminating an application shall be governed by the procedures set forth in ORS 34.010 to 34.100, and correction of assessments and tax rolls and the evaluation of the property shall be in conformity with ORS 307.687. The council's action on an exemption shall not be a land use decision for purposes of administrative review.
- (5) If construction, addition, or conversion of multiple-unit housing is not completed by January 1, 2022, upon receipt of a request from the property owner, the council may, by resolution, extend the deadline for completion of construction of multiple-unit housing for a period not to exceed 12 consecutive months, if it finds the failure to complete construction by the time specified in the resolution was due to circumstances beyond the control of the owner, and that the owner had been and could reasonably be expected to act in good faith and with due diligence.
- (6) In any event, no multiple-unit housing granted an exemption by the council may be exempt from ad valorem taxation for more than 10 successive years. The first year of exemption is the assessment year beginning January 1 immediately following the calendar year in which construction, addition or conversion is completed, determined by that stage in the construction process when, pursuant to ORS 307.330 the improvement would have gone on the tax rolls in the absence of the exemption. The exemption may not include the land, nor any improvements located thereon that are not a part of the multiple-unit housing but may include commercial use of a portion of the structure and parking constructed as part of the multiple-unit housing construction, addition or conversion, and is in addition to any other exemption provided by law. However, no property may be exempt beyond 100 percent of its real market value.
- (7) Any exemption granted by the council shall terminate immediately, without right of notice or appeal, in the event the county assessor determines that a change of use to other than residential or residential with commercial uses of a portion of the structure, or housing has occurred for the multiple-use housing, or portion thereof, or if a low income housing assistance contract with an agency or subdivision of this state or the United States is breached or terminated prematurely, or a declaration as defined in ORS 100.005(12) is presented to the county assessor or tax collector for approval in connection therewith. Termination shall be in accordance with the provisions of ORS 307.627.

**(8) Notwithstanding subsections (1) through (7) of this section, if applicant, developer or other owner of the project has failed to comply with the requirements of ORS 307.600 through 307.637, sections 2.945 through 2.947 of this code or the administrative rules adopted thereunder, or a resolution adopted pursuant subsection (7) of section 2.945 of this code, in lieu of initiating termination proceedings, the city manager may impose penalties as set forth in section 2.1995 of this code. Each day in which a violation is caused or permitted to exist constitutes a separate violation. Failure to pay an administrative penalty authorized by this subsection shall be grounds for terminating the exemption under subsections (1) - (3) of this section.**

**Section 4.** The Multiple-Unit Property Tax Exemption Program goal is to assist in the creation of 1,500 new, multiple-family housing units after adoption of this Ordinance, which will, in part, assist in the implementation of Envision Eugene. The Program Review Panel will review the cap as part of the annual report. At such time that the MUPTE-assisted number of dwelling units constructed reaches the program volume cap, Council shall conduct a comprehensive review to determine if continuation of the program is in the best interest of the City.

**Section 5.** The City Recorder, at the request of, or with the consent of the City Attorney, is authorized to administratively correct any reference errors contained herein, or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

**Passed by the City Council this**

**Approved by the Mayor this**

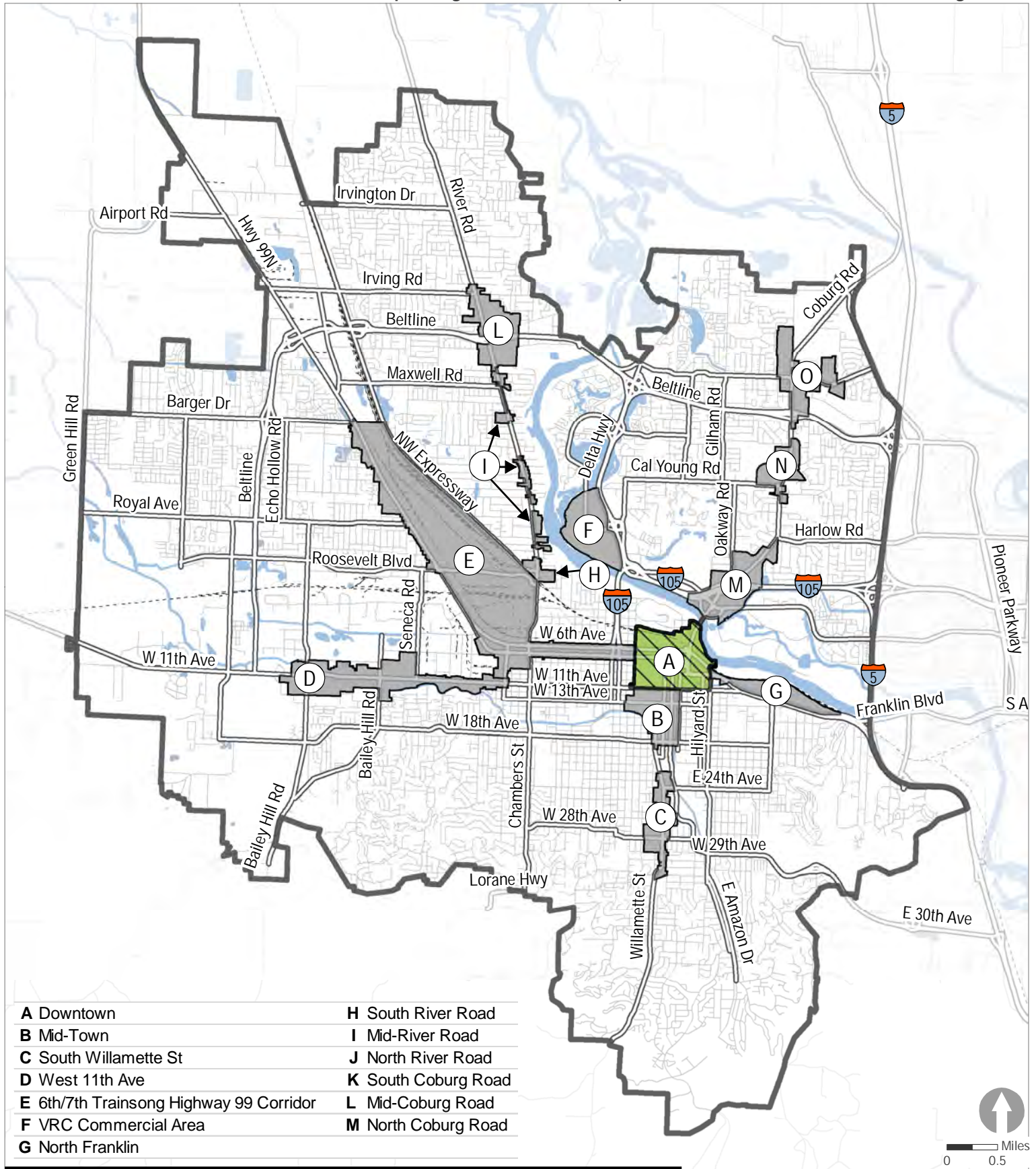
\_\_ day of \_\_\_\_\_, 2014

\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
**City Recorder**

\_\_\_\_\_  
**Mayor**

# Potential Multi-Unit Property Tax Exemption (MUPTE) Boundary



**Area A active immediately to accept MUPTE applications**  
**Area B – M active upon completion of area planning focused on transition zones and compatability. Opportunity sites could apply, if brought forward with support of neighborhood, property owners, and developers.**

Caution: This map is based on imprecise source data, subject to change, and is for general reference only.



**ATTACHMENT C**

**Background Information on Draft Ordinance**

Each criteria or program feature has a table with the draft ordinance concept compared to the suspended program with the draft ordinance rationale below. The ordinance location/situation appears after each concept within brackets (“[ ]”). There are nine Required Public Benefit criteria, Additional Public Benefit criteria, and three Other Program Features.

Required Public Benefits are generally found within the draft ordinance “Criteria for Approval” Section 2. 2.946(2). Some are in “Additional and On-going Obligations of Project Approved for Exemption” Section 2. 2.946(4).

Additional Public Benefits are found within the draft ordinance “Criteria for Inclusion of Additional Public Benefits” Section 2. 2.946(3).

The proposed ordinance includes enforcement language stating that failure to comply with the requirements included in the MUPTE program ordinance and any subsequent individual project approval resolutions may result in an administrative civil penalty Section 3. 2.947(8) or in termination of the tax exemption Section 3. 2.947(1) through (7).

**REQUIRED PUBLIC BENEFITS**

**1. Eligible Project Type**

<i>Draft Ordinance</i>	<i>Old / Suspended Program</i>
<ul style="list-style-type: none"> <li>○ Multi-unit redevelopment housing projects with 5+ units (per State law) [Section 2. 2.946(2)(a)]</li> <li>○ Commercial portion if deemed public benefit [Section 1. 2.945(7)]</li> <li>○ Not student housing [Section 2. 2.946(2)(a)]</li> </ul>	<ul style="list-style-type: none"> <li>○ Multi-unit housing projects with 5+ units (per State law)</li> <li>○ Commercial portion if deemed public benefit</li> </ul>

**Rationale:** Focuses program on creation of traditional market rate housing.

**2. Compact Urban Development**

<i>Draft Ordinance</i>	<i>Old / Suspended Program</i>
<p>For the downtown boundary area, specific density based on zone [Section 2. 2.946(2)(c)], with minimum of 5 units no matter the zone, per State law [Section 2. 2.946(2)(a)]</p> <p>For all other boundary areas, the requirement would be based on the area plan or other neighborhood process [Section</p>	<p>Not required public benefit.</p> <p>One of eight possible public benefit categories for scoring points, based on the degree to which the project exceeds the minimum density requirements for the location:</p> <ul style="list-style-type: none"> <li>- 10 points/unit in excess of minimum</li> </ul>

2. 2.946(2)(c)], (with minimum of 5 units, per State law [Section 2. 2.946(2)(a)]	required, with 50 points maximum. – 100 points for “Opportunity Site”
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**Rationale:** For downtown, the recommendation promotes density beyond the code minimums where density is most easily absorbed. For other areas, Option B is in line with neighborhood engagement results from May and June and with neighborhood livability. Option B was deemed reasonable by the Developer Stakeholder group and the Technical Resource Group of Envision Eugene.

### 3. Project Design / Compatibility

<i>Draft Ordinance</i>	<i>Old / Suspended Program</i>
<p>Project must address basic design principles in the context of the location. [Section 2. 2.946(2)(e)] (Specific reference to the <i>Community Design Handbook</i> will be in the Administrative Rule.)</p> <p>Project must adhere to the project design elements that were reviewed at the time of Council approval and attached to the approval resolution. [Section 2. 2.946(2)(e)]</p>	<p>Not required public benefit.</p> <p>Schematic drawing / site plan required with application</p>

**Rationale:** Aligns criteria with work already in progress in the Planning Division. Enables enforcement of design information submitted in the application. This was deemed reasonable by Developer Stakeholder group.

### 4. Green Building

<i>Draft Ordinance</i>	<i>Old / Suspended Program</i>
<p>Focused on building energy performance – all projects would perform at least 10% more efficiently than the performance established in the Oregon Energy Efficiency Specialty Code through one of several pathways. [Section 2. 2.946(2)(f)1. &amp; 2.]</p> <p>Additionally, all projects that provide onsite parking will be required to install conduit for future electric vehicle charging stations. [Section 2. 2.946(2)(f)2. &amp; 3.]</p>	<p>Not required public benefit.</p> <p>One of eight possible public benefit categories for scoring points, based on the certification program:</p> <ul style="list-style-type: none"> <li>– 100 points for LEED certification</li> <li>– 25 – 75 points for Earth Advantage Silver, Gold, Platinum, respectively</li> </ul>

**Rationale:** The focus is on building energy performance, as prioritized within Envision Eugene and the Climate Energy Action Plan. Deemed acceptable by Green Building staff, the Technical Resource Group of Envision Eugene, and the Developer Stakeholder Group.

The idea for including electric vehicle charging station related items came from Representative Barnhart through Councilor Zalenka. Having projects with onsite parking install conduit for

future electric vehicle charging will provide the infrastructure needed for future installation when actual users or additional demand are identified. The downtown parking garages have had 16 charging stations in place since 2012 and have had an average of one use every two weeks per station. The Broadway Place South Garage with housing above has averaged one use per month for each of the two charging stations, for a total of 2 hours of charging over the two and a half years since being installed.

**5. Neighborhood Engagement**

<i>Draft Ordinance (situation)</i>	<i>Old / Suspended Program</i>
<p>Applicant required to contact appropriate neighborhood association to share project information, to seek input, and to provide received comments with application. [Section 1. 2.945(3)]</p> <p>Specifically, one or more of the principals of the applicant entity must attend two neighborhood engagement opportunities (discussions/presentations):</p> <ul style="list-style-type: none"> <li>- One of the opportunities must be prior to MUPTE application submission. [Section 1. 2.945(3)]</li> <li>- The second opportunity must be during the design process and before the final design drawings are completed. [Section 2. 2.946(4)(b)]</li> </ul> <p>Additionally, the neighborhood must have the opportunity to review and comment on the final design before the project is submitted for permits. [Section 2. 2.946(4)(b)]</p> <p>Neighborhood association where the project is located will have two neighborhood representatives seated on the MUPTE Review Panel who can voice project specific neighborhood issues and concerns, including additional neighborhood specific public benefits, during the application review process. [Section 1. 2.945(13)]</p>	<p>Applicant required to contact appropriate neighborhood association to share project information, to seek input, and to provide received comments with application.</p>

**Rationale:** Based on feedback from May and June neighborhood leader outreach to support neighborhood engagement and neighborhood livability.

**6. Boundary**

<i>Draft Ordinance</i>	<i>Old / Suspended Program</i>
<p>Downtown area activated as soon as City Council lifts program suspension (current boundary plus one property on 11<sup>th</sup> &amp; Lincoln that was in the 2004 to 2011 boundary and EWEB property north of 4<sup>th</sup> Avenue) [Section 2. 2.946(1)(a)]</p> <p>Area eligible for applications after area planning [Section 2. 2.946(1)(b)1.] or city-wide code amendments [Section 2. 2.946(1)(b)2.] to include EE corridors &amp; primary commercial area:</p> <ul style="list-style-type: none"> <li>- Mid-town</li> <li>- South Willamette</li> <li>- West 11<sup>th</sup></li> <li>- 6<sup>th</sup>/7<sup>th</sup> Trainsong Highway 99 Corridor</li> <li>- Valley River Center commercial area</li> <li>- North Franklin</li> <li>- South River Road</li> <li>- Mid-River Road</li> <li>- North River Road</li> <li>- South Coburg Road</li> <li>- Mid-Coburg Road</li> <li>- North Coburg Road</li> </ul> <p>Site within inactive boundary eligible if brought forward by a partnership of property owner / neighborhood [Section 2. 2.946(1)(c)], as an “opportunity site.”</p>	<p>Downtown Plan Area</p>

**Rationale:** Activating downtown as soon as the suspension is lifted puts the program in place to respond to three known projects: Obie’s development on 6<sup>th</sup> Avenue, Brokaw development on East Broadway, and EWEB Riverfront redevelopment. Including the other non-downtown areas aligns with Envision Eugene implementation. Adding areas only after area planning or city-wide code amendments supports neighborhood engagement and livability. This was deemed reasonable by the Technical Resource Group of Envision Eugene and neighborhood leaders who attended the June meetings.

Including an “opportunity siting” option for inactive areas, aligns with Opportunity Siting policy direction; supports neighborhood engagement and livability; deemed reasonable by the Technical Resource Group of Envision Eugene and neighborhood leaders who attended the June meetings.



**7. Affordable Housing**

<i>Draft Ordinance</i>	<i>Old / Suspended Program</i>
<p>Required payment to dedicated affordable housing/emergency shelter of 10% of the total MUTPE benefit for the 10-year benefit. [Section 2. 2.946(4)(c)]</p> <p>Not paid in the West 11<sup>th</sup> or 6<sup>th</sup>/7<sup>th</sup> Trainsong Highway 99 Corridor areas as additional incentive for multi-unit housing. [to be added in next version of ordinance.]</p>	<p>Not a required public benefit.</p> <p>One of eight possible public benefit categories for scoring points, based on the number of units dedicated to rental housing that is affordable to households at 60% of area median income at 10 points per unit.</p>

**Rationale:** The MUPTE affordable housing fee would generate a local, more flexible source of funding to support affordable housing not constrained by federal regulations. For example, the fee could be a source of predevelopment funds to replace HOME funds that are no longer eligible for that use. Based on the recommendation from the Housing Policy Board Committee. The fee is preferred over the provision of affordable units within MUPTE projects because:

- Provision of units would provide a shorter period of benefit when compared to the benefit periods attained through City affordable housing work. In addition, there could be difficult displacement issues when the period of affordability ends and the owner raises the rents;
- Paying the fee is more efficient for all parties. For-profit developers do not have experience in collecting income documentation. Record keeping, reporting, and monitoring are costly for owners and City staff.
- Mixed-income projects are highly unlikely (based on the MUPTE program history from 1989 – 2004, when the City last required an affordable housing component in MUPTE projects);
- Eliminates the need to reach agreement on the level of affordability for the units (percentage Area Median Income), which would be difficult; and
- Funds collected through fee will leverage other funds in projects.

Additionally, the Committee agreed that the fee could be waived at Council discretion in existing low-income areas, due to both the economic feasibility implications and the Housing Dispersal Policy, in that any new housing in that area could be viewed as a public benefit. As a reminder, the Committee was comprised of Norton Cabell, Morgan Greenwood, Councilor Chris Pryor, Virginia Thompson, John Vanlandingham, Jacob Fox (HACSA), Kristen Karle (SVDP), Richard Herman (Metro), and Susan Ban (Shelter Care). The Developer Stakeholder Group also concluded that an affordable housing fee would be preferable to providing units.

The City has a 20-year property tax exemption for affordable housing (LIRPTE), which the City of Portland does not currently have. Since 1990, LIRPTE has benefited 1,168 affordable housing units.

If the potential volume cap of 1,500 MUPTE units is reached, and depending on the number, size, and value of projects, preliminary estimates indicate that the fee could potentially

generate an estimated one to three million dollars dedicated to affordable housing / emergency shelter.

**8. Local Economic Impact**

<i>Draft Ordinance</i>	<i>Old / Suspended Program</i>
<p>Applicant to provide a plan for meeting the goal to provide for more than 50% of the dollar volume of the combined professional services and construction contracts include local firms. A local firm is one based in Lane County. [Section 2. 2.946(2)(g)1.]</p> <p>Applicant must ensure that qualified Minority and Women Business Enterprises (MWBE) have an equitable opportunity to compete for contracts and subcontracts, with approved applicants encouraged to use specific practices. [Section 2. 2.946(2)(g)2 &amp; (g)3.b.]</p> <p>Awarded projects must follow wage, tax, and licensing laws, with specific due diligence and documentation steps. [Section 2. 2.946(2)(g)3.c.]</p> <p>Awarded projects must post information on the Rights Assistance Program in English and Spanish. [Section 2. 2.946(2)(g)3.c.]</p> <p>As noted in the introduction, failure to comply with these (and all MUPTE) requirements may result in an administrative civil penalty [Section 3. 2.947(8)] or termination of the tax exemption [Section 3. 2.947(1) through (7)].</p>	<p>Not a required public benefit.</p>

**Rationale:** Construction stakeholder group and Developer stakeholder group recommended the focus be on firms (rather than employees) because:

- local firms hire local works as normal course of business
- tracking the many workers per project would be extensive
- construction workers are transient
- local firms have reputation at stake / motivated to comply with laws to increase likelihood of getting the next job
- local firms pay local taxes

MWBE section is aligned with the City’s internal practices. Wage, tax, and licensing laws section based on feedback from Representative Holvey and the Human Rights Commission

subcommittee, with additional input from the City Attorney. Rights Assistance Program added based on feedback from Human Rights Commission subcommittee.

**9. Project Need**

<i>Draft Ordinance</i>	<i>Old / Suspended Program</i>
<p>Projected financials to show the project:</p> <ul style="list-style-type: none"> <li>○ Would not be possible “but for” the tax exemption [Section 2. 2.946(2)(b)], and</li> <li>○ Will not exceed overall average annual 10% cash-on-cash rate of return for the project with MUPTE for the maximum period of exemption (10 years).</li> </ul> <p>If the projected overall average annual rate of return for the maximum exemption period is:</p> <ul style="list-style-type: none"> <li>○ Less than or equal to 10% and the Required Public Benefits are met, then the project be eligible to receive the maximum 10-year exemption [Section 2. 2.946(2)(b)1.],</li> <li>○ Exceeds 10%, then: <ul style="list-style-type: none"> <li>A. The term of the exemption will be decreased by the number of years necessary to bring the rate of return down to 10% [Section 2. 2.946(2)(b)2.], or</li> <li>B. The applicant can propose adding project elements from the Additional Public Benefit Criteria to increase the term of the exemption up to 10 years [Section 2. 2.946(3)].</li> </ul> </li> </ul> <p>Submits with application: 10-year proforma and analysis of 10-year return. [to be referenced in Administrative Rule]</p>	<p>Projected financials to show the project:</p> <ul style="list-style-type: none"> <li>○ Would not be possible to build “but for” the tax exemption.</li> </ul> <p>Submits with application: 1 year proforma</p>

**Rationale:** As requested by several councilors and deemed reasonable by the Developer Stakeholder group.

**Additional Public Benefit Criteria**

<i>Draft Ordinance</i>	<i>Old / Suspended Program</i>
<p>Applicants have the ability to earn additional years by providing Additional Public Benefits in the following three categories [Section 2. 2.946(3)]:</p> <p><b>Documented Local Economic Impact</b> [Section 2. 2.946(3)(a)] The extent to which the project:</p> <ul style="list-style-type: none"> <li>○ Meets the goal established in the Local Economic Impact Plan (Required Public Benefit),</li> <li>○ Demonstrates solicitation of bids from MWBE, and</li> <li>○ Commits to completing certified payroll.</li> </ul> <p><b>Location</b> Projects located within:</p> <ul style="list-style-type: none"> <li>○ The Downtown Plan Area [to be added in next version of ordinance],</li> <li>○ A HUD low-mod income area [Section 2. 2.946(3)(b)],</li> <li>○ On a brownfield site [Section 2. 2.946(3)(b)], or</li> <li>○ Projects that include the redevelopment of a valuable historic resource [Section 2. 2.946(3)(b)].</li> </ul> <p><b>Project Features</b> The extent to which the project incorporates the following features [Section 2. 2.946(3)(c)1. through 10.]:</p> <ul style="list-style-type: none"> <li>A. Payment of an increased affordable housing fee,</li> <li>B. Exceed the Green Building Required Public Benefit Criteria,</li> <li>C. Provision of Americans with Disabilities Act (ADA) <i>accessible</i> dwelling units. [This is beyond the code requirements. The building code requires that projects include a minimum number of ADA <i>adaptable</i> dwelling units]</li> </ul>	<p>Council able to approve exemption for fewer years. Nothing in the program ordinance specifies the conditions under which the Council would limit the number of years.</p> <p><b>Documented Local Economic Impact</b> Not included</p> <p><b>Location</b> Two of eight possible public benefit categories for scoring points, based on:</p> <ul style="list-style-type: none"> <li>- Location within the <i>Downtown Area Plan</i> at 100 points.</li> <li>- <i>Historic Sensitivity</i> for any project that is immediately adjacent or contiguous to a historic locale shall include a plan to mitigate impacts to the historic locale. The plan needs to be reviewed and accepted by a PDD staff person and have an accompanying confirmation letter for 25 points.</li> </ul> <p><b>Project Features</b> Three of eight possible public benefit categories for scoring points, based on:</p> <ul style="list-style-type: none"> <li>- ADA <i>accessible</i> units in the project at 10 points/unit.</li> <li>- Homeownership: 50% or more of the housing dedicated to homeownership at 100 points.</li> <li>- Parking spaces provided beyond the number required by the Code (only for projects within the Residential Parking Permit Program zones) at 10 points/parking space.</li> </ul>

<p>D. Provision of dwelling units available for home ownership,</p> <p>E. Inclusion of open space, community gardens, or gathering space that is accessible to the surrounding community,</p> <p>F. Inclusion of ground floor commercial/retail that addresses a neighborhood need,</p> <p>G. Design excellence and neighborhood compatibility,</p> <p>H. Provision of embedded or structured parking,</p> <p>I. Encourage alternative transportation options, including bus passes, car share, bike share, bus shelter, pedestrian connections, meeting LEED v4 'Green Vehicle' Credit Description, and minimum parking where appropriate, and</p> <p>J. Other features identified by neighborhood through the engagement process.</p>	
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**Rationale:** Having additional public benefits provides a flexible menu of options, can enable higher quality projects, provides ability for a project to be more responsive to needs expressed by neighborhood, and adds to the public benefits. Project features add cost to project and benefits to community. Item I. includes green vehicle LEED requirement to cover installation of electric vehicle charging stations as recommended by Representative Barnhart. Item J. based on feedback from May and June neighborhood leader outreach to support neighborhood engagement and neighborhood livability.

**OTHER PROGRAM REQUIREMENTS**

**Financial Reporting**

<i>Draft Ordinance</i>	<i>Old / Suspended Program</i>
<p>During exemption period, project owner must submit annual accountant-prepared financial information to evaluate a to-date cash on cash rate of return for the project [Section 2. 2.946(4)(d)]:</p> <ul style="list-style-type: none"> <li>○ Audited financial statements</li> <li>○ Tax returns</li> <li>○ 10-year operating cash flow with to-date rate of return</li> <li>○ Year 1 to include list of construction labor residence information (zip codes)</li> </ul> <p>Information submitted by owners to be kept confidential to the extent state public records law allows.</p>	<p>Not included</p>

**Rationale:** Used by City Manager to analyze the overall effectiveness of the program and may be used in the aggregate as part of the Annual Report.

**Program Volume Cap**

<i>Draft Ordinance</i>	<i>Old / Suspended Program</i>
<p>Program goal is to assist in the creation of 1,500 new, multi-family housing units through redevelopment (after adoption of the 2014 ordinance). [Section 4]</p> <p>Cap to be reviewed annually by the MUPTE Review Panel as part of the Annual Report. At such time that the MUPTE-assisted number of dwelling units constructed reaches the cap, council shall conduct a comprehensive review to determine if continuation of the program is desired. [Section 4]</p>	<p>Not included</p>

**Rationale:** Capping the cumulative number of units is aligned with Envision Eugene identified gap using updated information regarding the 20-year projection for multi-family homes and land capacity. Currently, there is insufficient demand to warrant a competitive process. Having an annual cap would unnecessarily limit multi-unit housing redevelopment opportunities. Program has averaged just under one project per year over the 30 active years of the program.

**MUPTE Review Panel**

<i>Draft Ordinance</i>	<i>Old / Suspended Program</i>
<p>A newly formed MUPTE review panel to provide a third-party review of the MUPTE program for the City Manager including:</p> <ul style="list-style-type: none"> <li>• Review of project applications, with emphasis on analyzing the project’s financial projections. [Section 1. 2.945(4) &amp; (13)(b)1.]</li> <li>• Review applicant’s conformance with the Required Public Benefits and any proposed Additional Public Benefit Criteria and make recommendations regarding approval/denial of the tax exemption to the City Manager. [Section 1. 2.945(4) &amp; (13)(b)1.]</li> <li>• Assist the City Manager in preparing an Annual Report on the MUPTE program that will also cover the program volume cap. [Section 1. 2.945(13)(b)(2)]</li> </ul>	<p>The City’s Loan Advisory Committee reviews the projects financial projections and comes to a conclusion on whether the tax exemption is needed.</p>

<ul style="list-style-type: none"><li>• The Panel will be comprised of eight members with equal representation from technical interests and neighborhoods [Section 1. 2.945(13)(a)]:<ul style="list-style-type: none"><li>- 2 at-large neighborhood representatives; appointed by the Mayor</li><li>- 2 neighborhood representatives from the specific neighborhood in which a proposed MUPTE project is located</li><li>- 4 technical interests (such as, architect/green building, lender, labor, and developer)</li></ul></li></ul> <p>Review Panel members would sign a confidentiality agreement.</p>	
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**Rationale:** Panel composition includes feedback from the May and June neighborhood leader outreach to support neighborhood engagement.

## Follow-Up Information

### Affordable Housing Fee

- *Why 10% housing fee (and not some other percentage):* The ideal fee will a) make a meaningful contribution to affordable housing/emergency shelter and b) maintain MUPTE's ability to lower operating costs by enough to make a project financially feasible, given the other required public benefits that add cost to the project, such as Green Building. The 10% fee proposal is based on staff analysis of two past projects and estimates the combined impact of affordable housing fee and green building requirements to diminish the total tax exemption as a percentage of hard costs by 60% to 85%. Additionally, staff reviewed the fee in effect from 1989 to 2004, which ranged from \$100 - \$135 per unit per year. The proposed 10% fee would be approximately \$250 per unit per year (based on 2010 tax data and the projects exempted at that time).

As the program is currently drafted, part of the MUPTE Review Panel's role would be analyzing whether the project can absorb an increased affordable housing fee. In situations with excess return, the affordable housing fee could be increased.

As has been pointed out at several work sessions, the payment from Core Campus to the City is estimated to be 20% of the estimated total exemption. (Core Campus's project is The Hub, a high-end, 12-story \$44 million student housing development at 505 East Broadway.) It is important to recognize that the student housing market provides for rental rates far exceeding that of traditional market rate housing and can, therefore, absorb a payment to the City far in excess of what could be reasonably accommodated by market rate housing. Additionally, the process by which the Core's payment amount was determined mirrors what is proposed: Core's payment amount was increased to get the overall average rate of return to Council's threshold of 10% or below. The proposed process would have the length of the exemption reduced until this threshold is met.

- The City Attorney has concluded that the City can keep the entire affordable housing/emergency shelter fee.

### 30-Year Maintenance Fund

Councilor Zalenka requested additional information on potentially requiring a 30-year maintenance, repair, and replacement fund.

- *Not standard in the private market*  
A funded reserve is only seen in the market for federally funded projects (FHA-HUD) for low interest rate 30-year fixed financing. HUD requires the fund to ensure that the project will be in good condition at the end of the financing term. MUPTE projects generally receive five to ten year financing terms. Additionally, what would happen when the property is sold, which most are before 30-years? Does the reserve go with the property? No bank will finance a bank account.



- *Length of MUPTE vs. length of maintenance fund*  
MUPTE is for a maximum of ten years. Most major maintenance is not needed in the first years of a project. It is unclear how the City would continue the requirement after the exemption period is over, which is when the maintenance fund would be most relevant.
- *Determining specifics would be labor intensive*  
Lots of maintenance and repair expenses are replacement and not capital items. Involving the City in this area would be labor intensive. The list of items to included (e.g. paint, floor coverings) could be arbitrary.

**Clawback**

The financial analysis required would be labor intensive or require hiring a third party review with low probability that funds would be recaptured. The process, as currently drafted, calls for an annual review of the program including of the individual project financial statements. If/when those show the market is improving, Council could suspend the program or stop approving applications. Additionally, successful projects build momentum and encourage additional investment in the community.

Portland's MULTE program: If the return is exceeded, the developer must either pay back the exemption or extend the affordability period by 5 years (extend the length of time that the required units are rented at affordable rates). The amount is calculated at the end of the 10 years based on the average. Portland has found that this is one of the program requirements that is discouraging applications.



# EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



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## Work Session: Report to City Council from Police Auditor

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Meeting Date: January 21, 2015  
Department: Office of the Police Auditor  
*www.eugene-or.gov*

Agenda Item Number: B  
Staff Contact: Mark Gissiner  
Contact Telephone Number: 541-682-5016

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### ISSUE STATEMENT

The Police Auditor is appearing before the City Council to discuss the work of the Police Auditor's Office and to discuss an analysis of use of force by the Eugene Police Department.

### BACKGROUND

The Eugene City Council is the hiring authority for the Police Auditor. One of the responsibilities of the Auditor's Office is to perform a quality assurance function with the goal of identifying systemic changes that will improve police services to the community.

### RELATED CITY POLICIES

Eugene Charter and Police Auditor Ordinances

### COUNCIL OPTIONS

Offer comments and questions.

### CITY MANAGER'S RECOMMENDATION

Not applicable.

### ATTACHMENTS

- A. Use of Force Analysis
- B. PowerPoint Slides

### FOR MORE INFORMATION

Staff Contact: Mark Gissiner  
Telephone: 541-682-5005  
Staff E-Mail: [mark.a.gissiner@ci.eugene.or.us](mailto:mark.a.gissiner@ci.eugene.or.us)



**City of Eugene**  
**Police Auditor Review**  
**Eugene Police Department Use of Force**  
**April to December 2013**  
January 21, 2015



## **Auditor Review of 2013 Eugene Police Department Use of Force April to December, 2013**

### **Introduction**

In April 2013, the Eugene Police Department (EPD) initiated changes to the use of force reporting process as a result of the acquisition of “Blue Team” software.

The Independent Police Auditor (IPA) Office’s goal, working with EPD through the shared databases, is to be a leader in the collection and analysis of use of force data and to continually improve the quality of both processes. Recognizing the intricacies of uses of force, examining use of force outcomes is an important part of assessing our services to the community. The current data base for Internal Affairs and the Auditor’s Office, and purchased by the Auditor’s Office is called IAPRO. A component of IAPRO that became available is called “Blue Team.” It is incident specific software used by supervisors to record incidents in a timely manner. The implementation of “Blue Team” became fully operational in April, 2013.

Prior to the implementation of “Blue Team,” when officers used force, they filled out reports and submitted them for review by their supervisors. Thus, supervisors were not required to respond to the scene and/or produce the use of force report. The individual officer had the primary reporting responsibility for reporting their own use of force.

With the implementation of “Blue Team” supervisors now must respond to a use of force (usually considered something that begins with resistive handcuffing) and document the incident utilizing the “Blue Team” software system. It is expected that the supervisor will briefly interview involved officers, the arrestee, and document any pertinent information. The supervisor also takes photographs when feasible and ensures that if anyone is injured, medical assistance is provided. Then, the “Blue Team” information moves electronically through the chain of command protocols for review. The independent police auditor and internal affairs have complete access to all “Blue Team” entries and information. Anyone from the reporting supervisor or the chain of command can recommend that the police auditor initiate an allegation of misconduct based on a “Blue Team” preliminary investigation.

One of the responsibilities of the Auditor’s Office is to: “Perform a quality assurance function with the goal of identifying systemic changes that will improve police services to the community.”

### **Methodology:**

In 2014 the police auditor’s office took on the task of reviewing all use of force “Blue Team” entries for the period April 2013 to December 2013. In total, there were 130 use of force “Blue Team” entries (each community member or visitor taken into custody is counted as one) for this time period out of approximately 9,000-10,000 arrests and misdemeanor citations. Thus, in about 1.4% of the arrests, some level of force was used. In our review of other jurisdictions and in consultation with force experts, a percentage “goal” is 5% or less in which force is used during arrests. (There is some subjectivity per jurisdiction in reporting as there is no national standard for force reporting.)

All “Blue Team” entries are reviewed by the Auditor’s office, usually on a daily basis. This was not possible prior to the implementation of the “Blue Team” software system. Prior to “Blue Team” use of force was only reviewed when we received an external or internal complaint.

Several cases involved multiple uses of force, sometimes involving multiple officers. In cases where several force methods were applied, the auditor’s opinion about what was the most effective method was considered the primary force used. Thus, there is some subjectivity to the analysis.

## **Definitions:**

### **Types of Resistance**

**Static and Passive Resistance:** A response to police efforts to bring a person into custody or control for detainment or arrest. This is behavior initiated by a subject, when the subject does not comply with verbal or physical control efforts, yet the subject does not attempt to defeat an officer’s control efforts.

**Active:** A response to police efforts to bring a person into custody or control for detainment or arrest. A subject engages in active resistance when engaging in physical actions (or verbal behavior reflecting an intention) to make it more difficult for officers to achieve actual physical control.

**Ominous:** Behavior initiated by a subject that may or may not be in response to police efforts to bring the person into custody or control. A subject engages in ominous resistance when presenting behaviors that constitute an assault or the circumstances reasonably indicate that an assault or injury to any person is likely to occur at any moment.

**Lethal:** Any force, under the circumstances in which it is used, that is readily capable of causing serious physical injury or death.

### **Types of Force:**

**Control Hold:** Taking control of a resistive person through the use of escort holds, arm bars, wrist, arm and shoulder locks, hair holds to control an individual.

**Takedown:** Reducing an individual’s ability to resist arrest by taking a person to the ground which is tactically required by the officer and objectively reasonable within proper force parameters.

**Pressure Points:** Application of pressure to various nerve points on the body which short circuits the recipient’s thought process of resistance or aggression by the introduction of momentary pain stimulus.

**Elbow Strikes:** Forearm, vertical back strikes; powerful strikes limited to close quarter combat situation.

**Knee Strike:** The knee strike is delivered by driving the knee forward forcefully.

**Focus Blows:** Using the hand(s), open or closed, to deliver a forceful blow to facial or body area. A closed fist strike poses a risk injury when the hand impacts a hard surface causing injury to supporting bones in the back of the hand.

**ASP:** An expandable metal baton (ASP) is low profile, and appears less threatening to the public.

**OC Spray:** Chemical weapon commonly known as pepper spray.

**Taser:** Less-lethal device employing electronic muscular disruption technology that briefly causes loss of voluntary muscle control.

**Taser Point:** Withdrawing a Taser, pointing a Taser beam or threatening the use of a Taser without actual activation.

**Impact Munitions**—extended-range impact weapon such as the shotgun that fires a bean-bag round.

n (number of incidents between April 2013 and December 2013) = 130

**Analysis:**

Of 130 cases in which force was used, 12, or 9% involved either a report of a gun or actual guns. 9 more involved knives, 9 involved objects that could be used as weapons, 9 involved a person actually striking an officer with fists or kicks.

Of 130 cases, 66 different officers were the primary officer responding or considered to have used the first level of force.

Of 130 cases, 74 (57%) involved a use of force by one officer only.

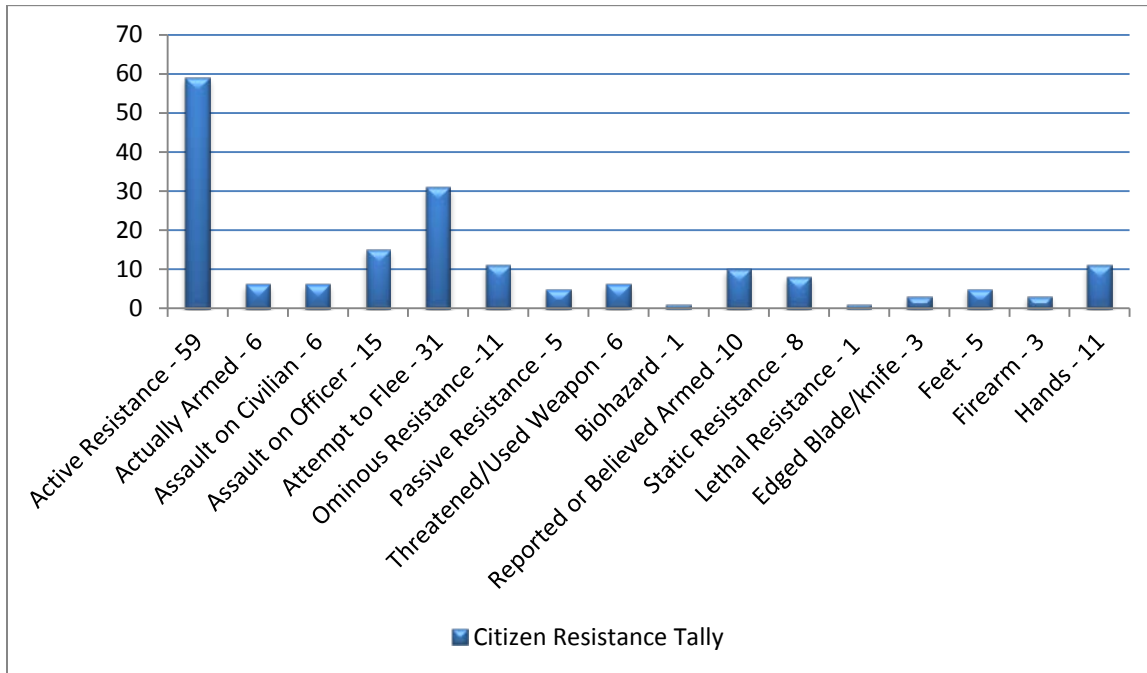
15 people were specifically identified as experiencing a significant mental health issue by the author of the report. Several others appeared to be suffering from emotional or mental health issues.

Average years of experience for the “primary” officer was 9.4 years.

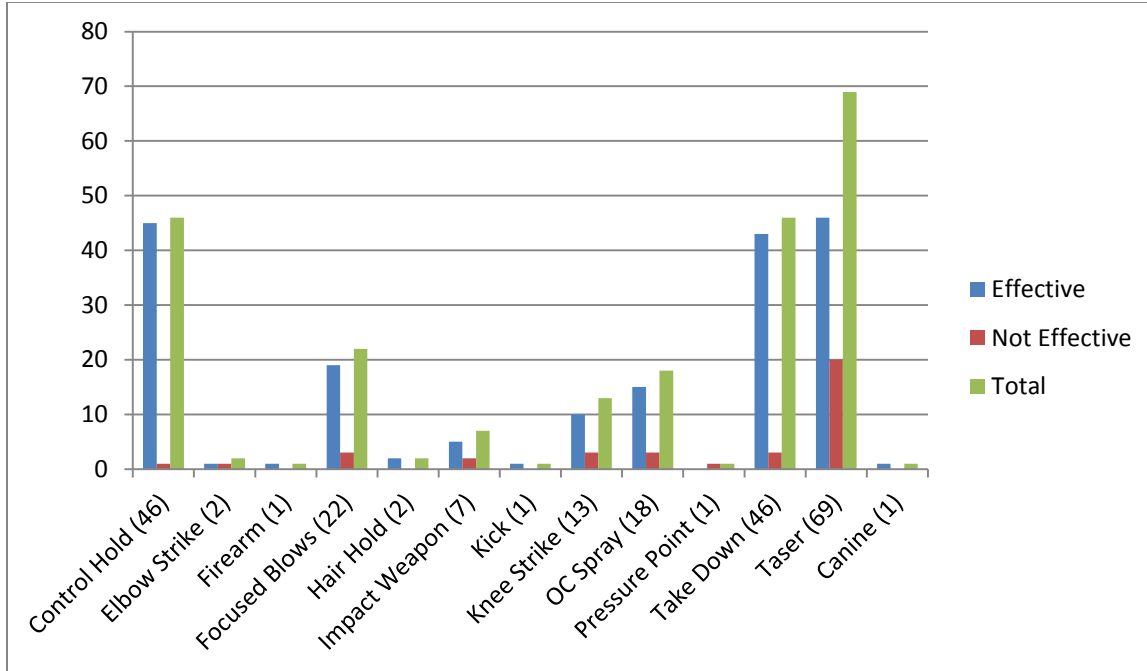


**Charts:**

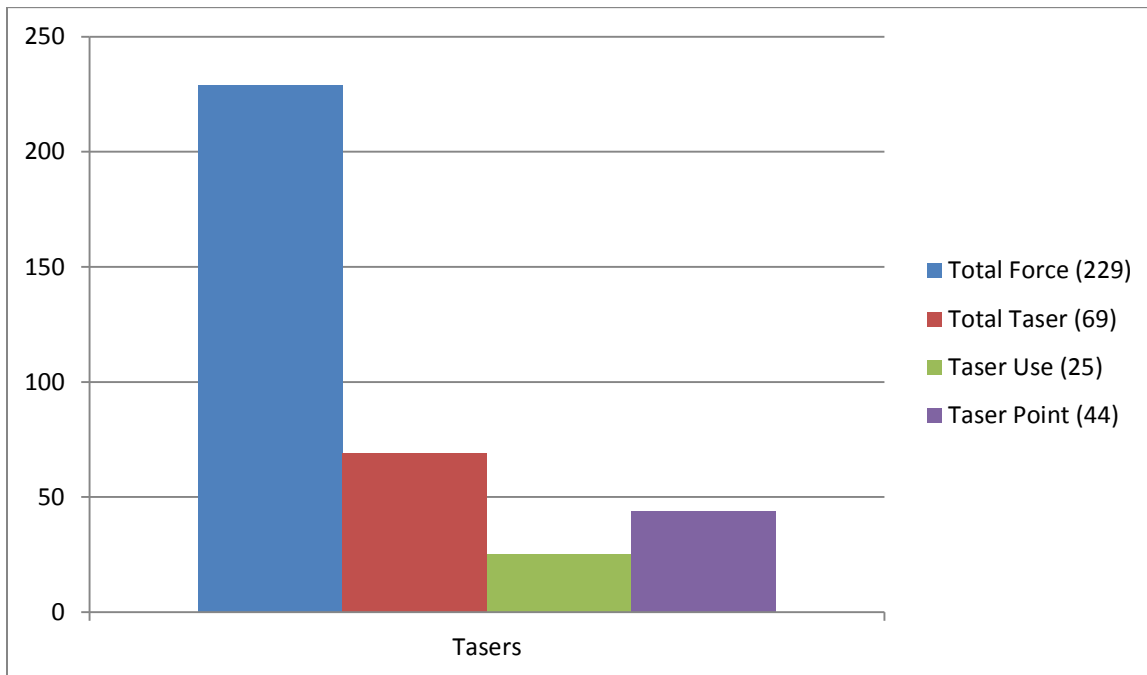
**Community Member or Visitor Resistance Tally: (181 total from 130 incidents)**



**Type of Force Tally; 130 Incidents, 229 Total Force Used Tally:**



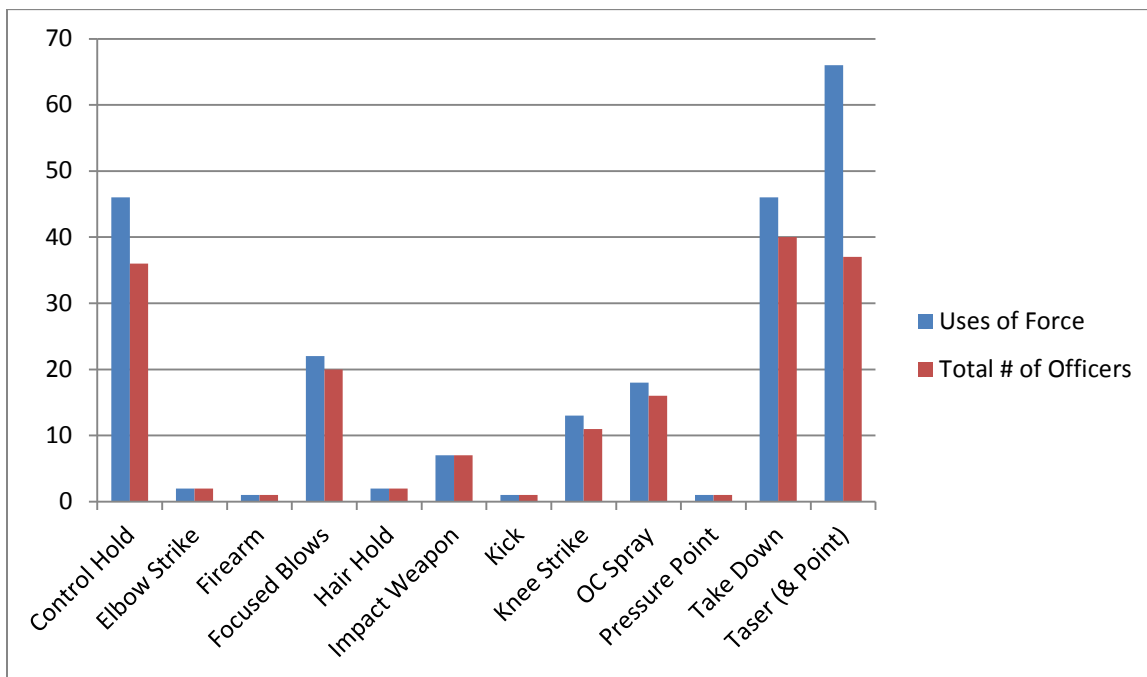
### Taser Usage



30% of all reported uses of force involved the Taser. 11% of reported uses of force involved actual deployment of the Taser and 19% involved only the pointing of the Taser. Of the 44 Taser points, 30, or 68% was the sole reported force used. For the cases studied, a Taser point only was an effective tool to gain compliance of a resistive or non-compliant arrestee when used in 2/3 of encounters involving a Taser point. This does not mean it will be as effective in the future as each event is independent of all others.

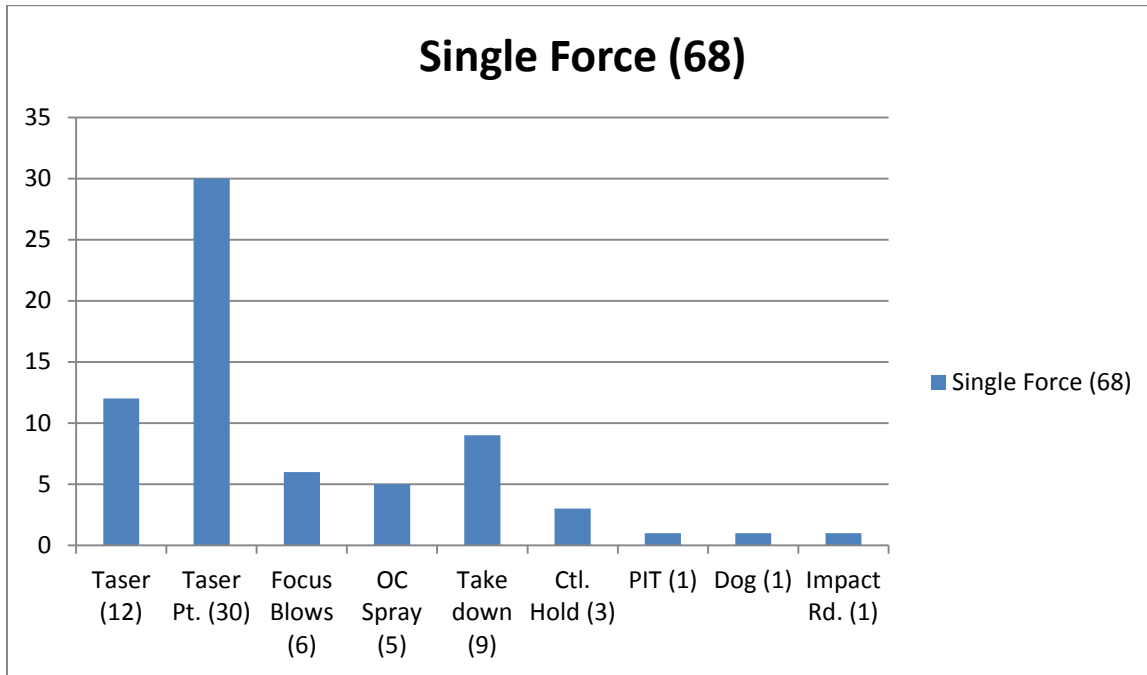
An actual Taser deployment was used in 0.28% of custody arrests and misdemeanor citations.

Of interest to the Auditor’s office is whether there are specific officers identified more often in uses of force. There were only two officers with greater than average Taser points or warnings. A Taser point or warning, while considered a use of force, involves no physical contact. (See chart below.)

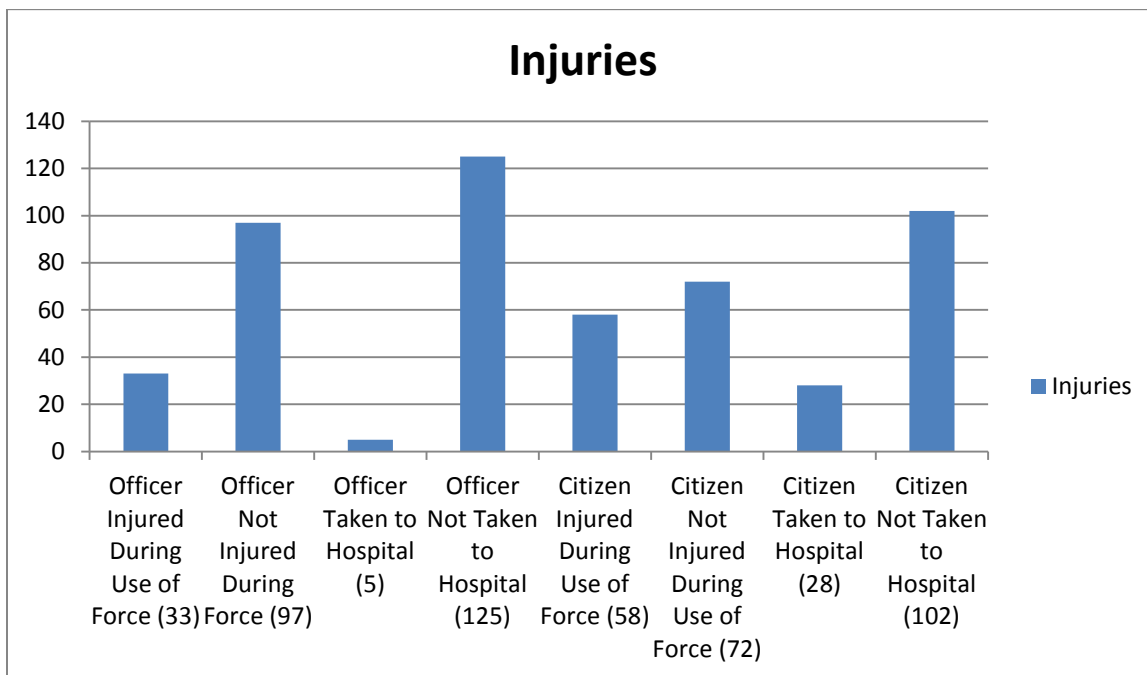


### Single Use Force to Affect Arrest

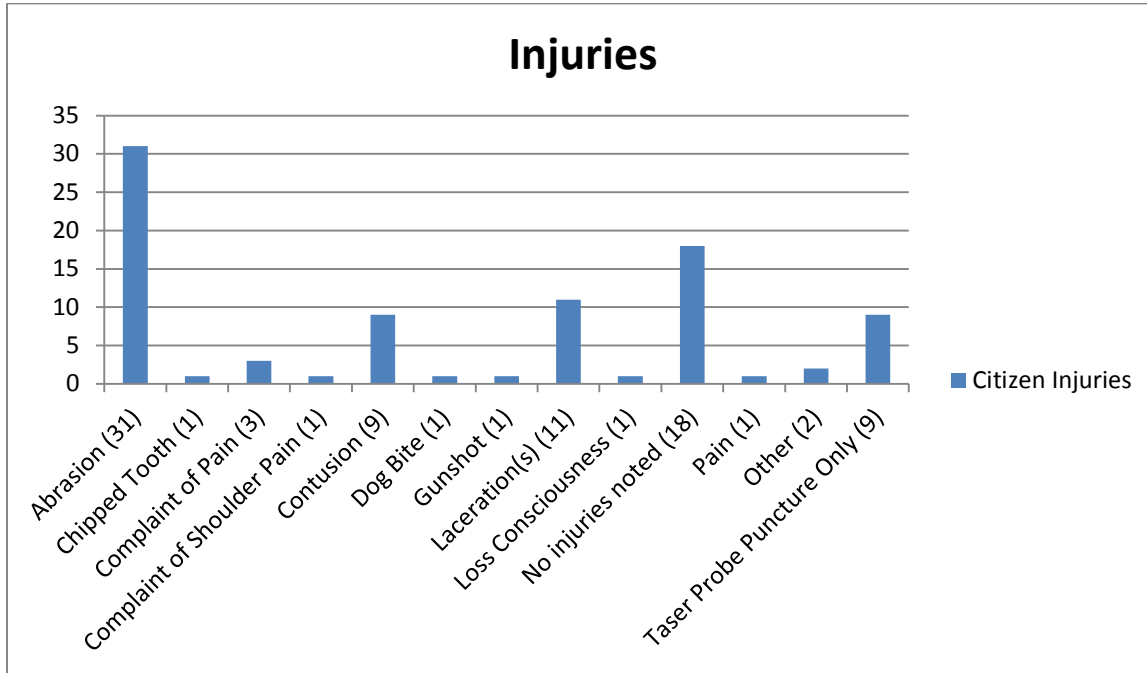
Of the 130 cases, one level of force only was used in 68 cases, or 52%. These are categorized below.



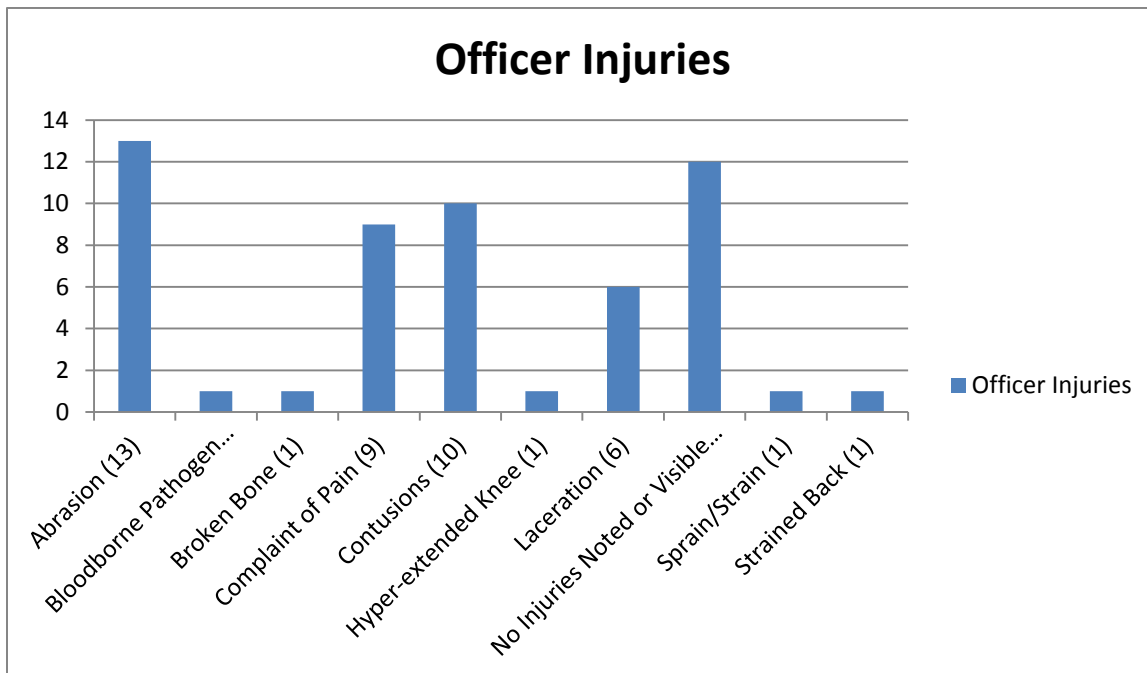
### Injury Comparisons



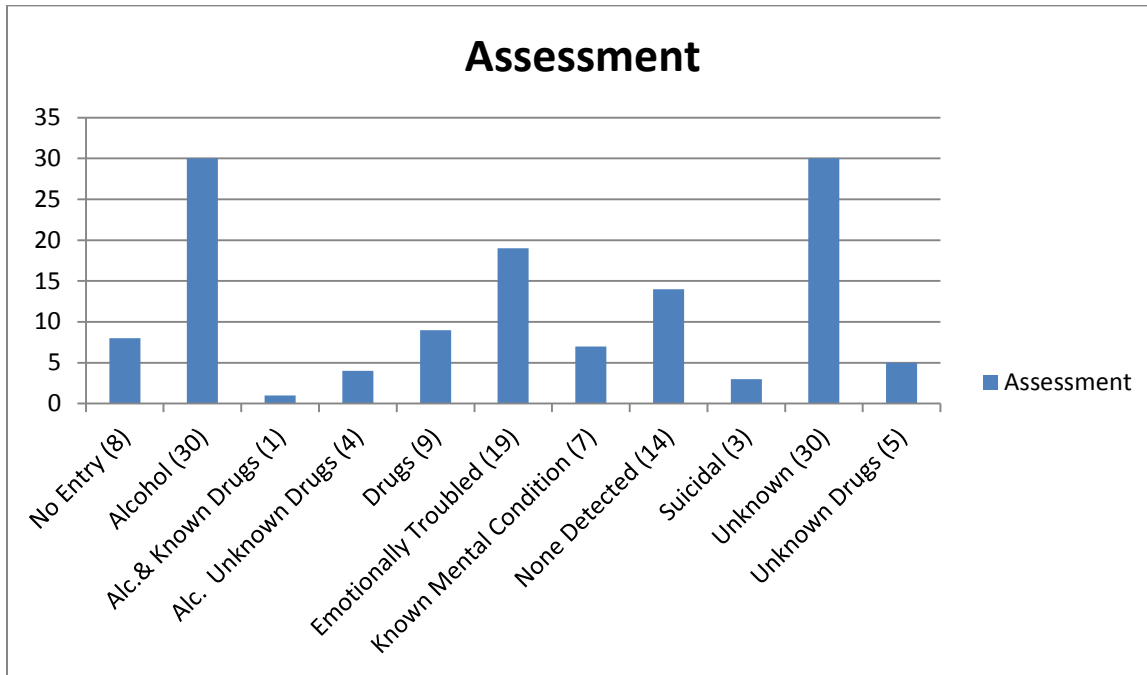
**Community Member Tally of Injuries:**



**Officer Tally of Injuries:**



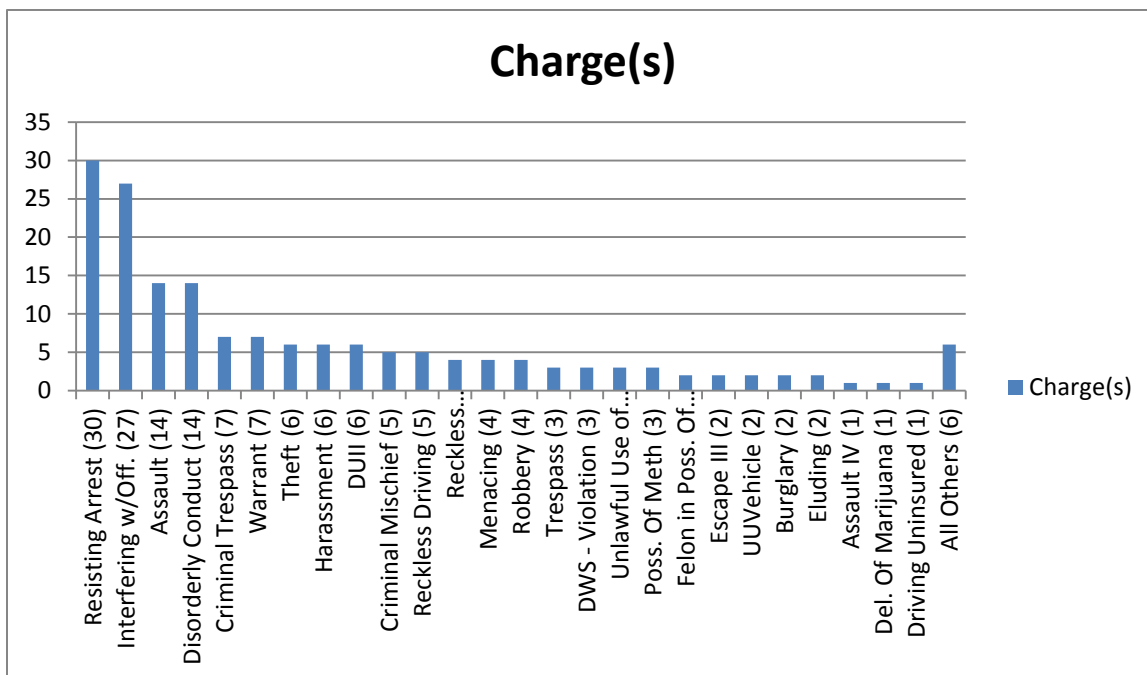
Officer Assessment of Community Member or Visitor Condition at the Time Force Was Used



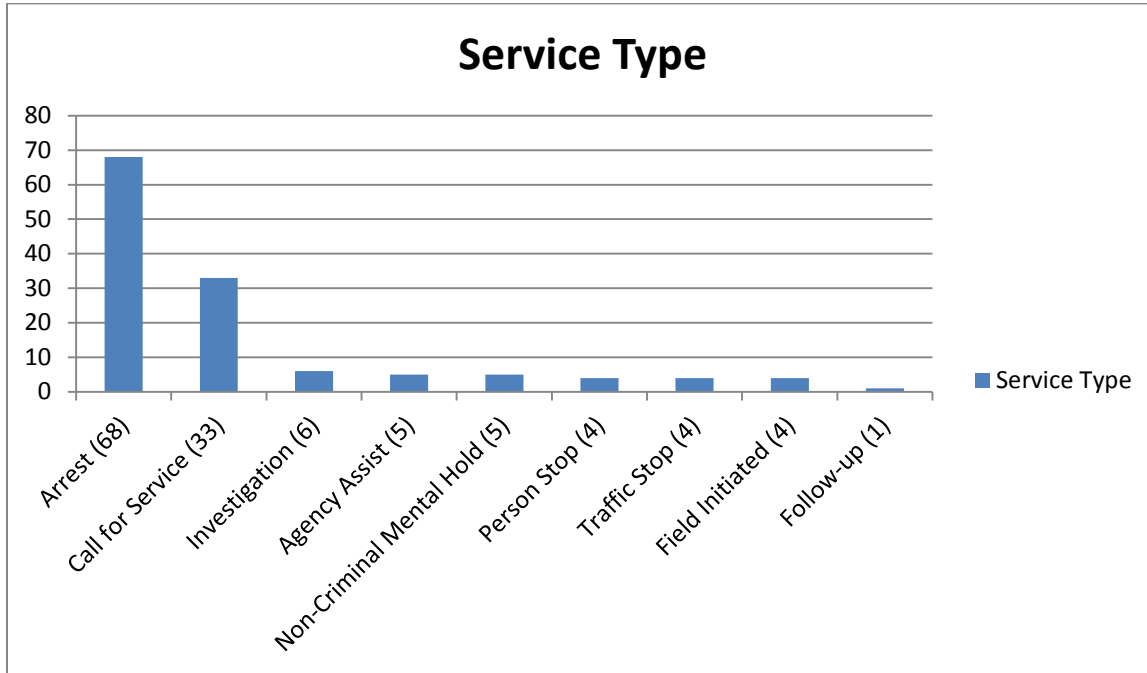
Community Member or Visitor Arrested in Conjunction with Use of Force: 106

Community Member or Visitor Not Arrested in Conjunction with Use of Force: 24

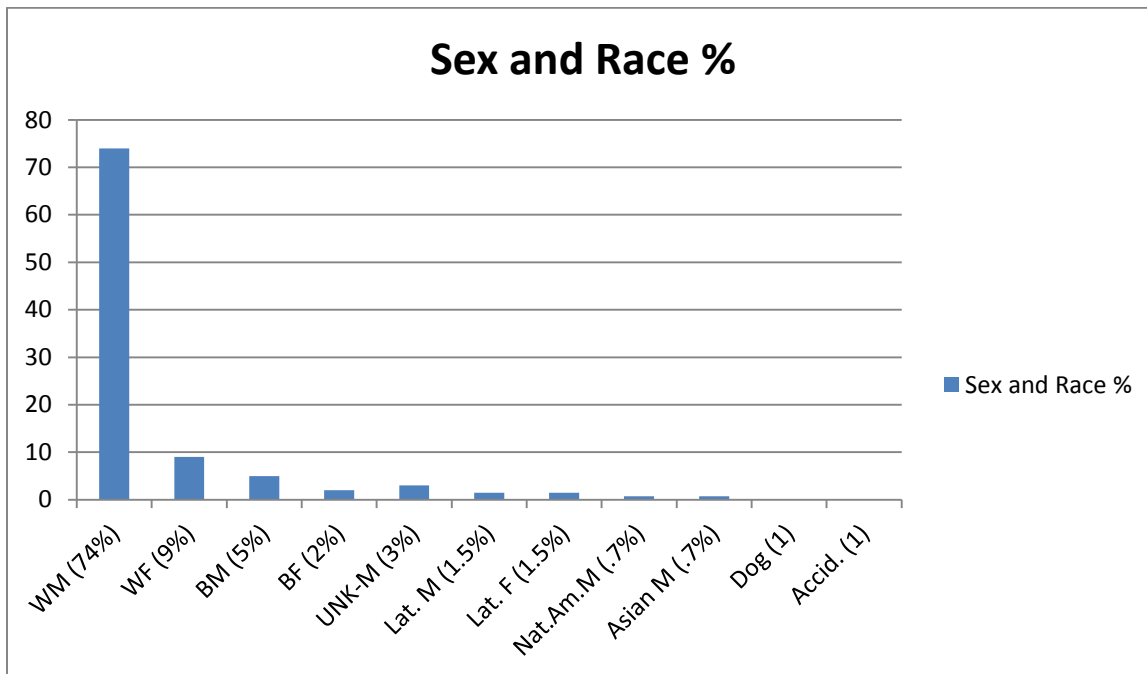
Tally of Charges Against Involved Community Member or Visitors (171 total)



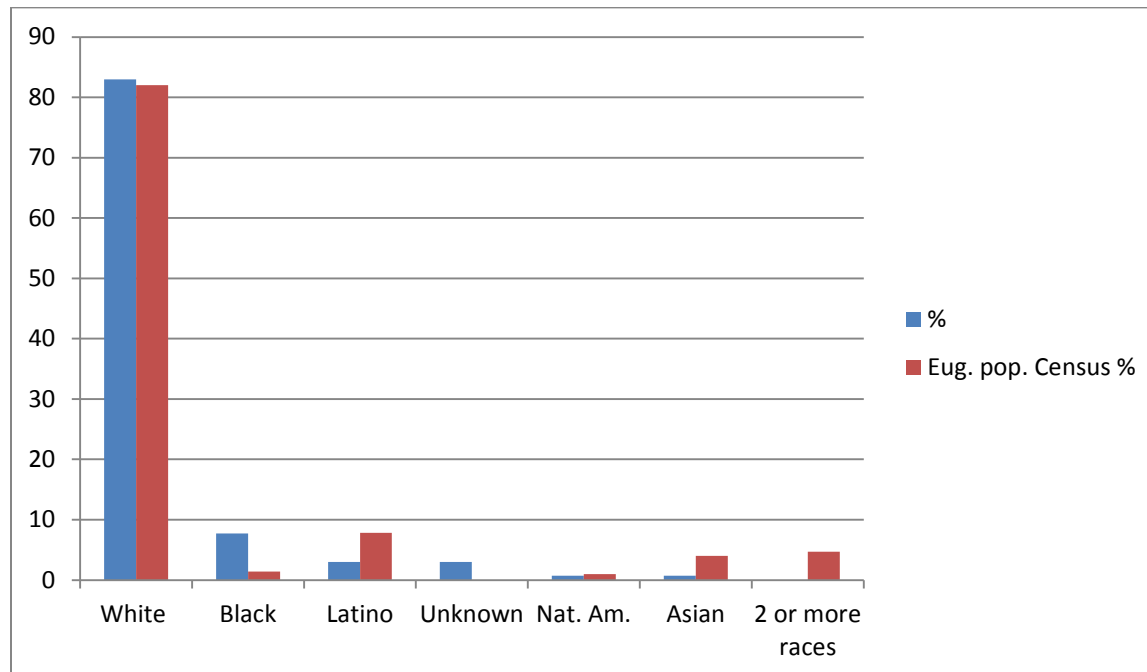
**Nature of Police Service Involving Use of Force (n=130):**



**Race and Sex Data**



**Race Only (1<sup>st</sup> column: % of uses of force: 2013; 2 column pop. Census %: 2010)**



In two of the cases involving African-Americans males, both were not from Eugene and allegedly committed armed robbery and were in a vehicle pursuit. One was apprehended by a K-9 and the other by getting hit in the back with a flashlight. Both were believed to be armed with guns.

We found no pattern among individual officers of using force against minorities. Given the small sample size for cases involving identified non-whites, (10 black or African-American, 4 Latinos, 1 Asian and 1 Native American) each case was analyzed based on officers involved, the type of force used, and whether there were “repeat” officers. Only one officer of 179 sworn personnel was identified as the primary or secondary officer in 2 uses of force involving African-Americans. One instance as described below involved an extremely volatile situation and another involved the threat of a Taser use only.

**Cases involving African-Americans:**

In the 1<sup>st</sup> instance, 4 officers and 2 sergeants responded to a hotel regarding a possible delusional male in the bathtub. The male, was naked in the bathtub with several metal objects he had torn off the walls. His father was in the room with him and had called for help. The officer was directed by a sergeant to fire his Taser. Medics were on scene and administered a sedative.

In the 2<sup>nd</sup> instance, the same officer was making a traffic stop. When the man began to flee, the officer stated he would use the Taser if he did not stop. The man stopped.

Three uses of force involved African-American females. In the first arrest officers responded to a woman hitting a gas station sign with a stick. When they attempted to arrest her, she struck one officer in the face with a closed fist. Officers used a one-second burst of OC spray and a focus blow to the midsection. In the



second arrest, a woman, suffering from mental health issues went to her neighbor's house nude. She entered the residence and was destroying property. Officers arrived and confronted her inside the residence. Officers each grabbed an arm and took her to the ground with a takedown and then into a control hold for handcuffing. EMS transported her to UDH on a police mental hold. In the third event, a woman and a man were physically fighting. When officers attempted to intervene, the couple fought with officers. OC spray, control holds and focus blows were used to control the couple.

An arrest of an African-American male involved the use of a Taser point (not an actual deployment) and a take down to arrest a home invasion suspect. In another event, a man was alleged to have pointed a weapon at another person. Officers went to his parents' home where they were given permission to enter. He barricaded himself in a room, then officers were able to apprehend him using a Taser point and a knee strike. In another event, an African-American male was in a restaurant with a knife. The officer warned him he would be Tasered, the man surrendered without incident.

#### **Cases Involving Latinos:**

1<sup>st</sup> Case: A man was fighting with his brother and threatened to kill his sister. He acquiesced to arrest after the officer warned him he would deploy his Taser.

2<sup>nd</sup> Case: Officers responded to a domestic violence call in which the caller stated a woman was armed with two guns. Officers used a takedown to control her.

3<sup>rd</sup> Case: Officers responded to a 911 about a man armed with a rifle, seen dragging his mother inside of a house while yelling that he was going to take her hostage and kill her. They used bean bag rounds to subdue him.

#### **Use of Force Sustained Findings**

In addition, there were two sustained findings (that an officer's use of force violated policy). One involved an officer at the jail. His probationary status was terminated. The second incident involved an officer who delivered a focus blow to the back of a man who had resisted arrest after the man had been handcuffed. This happened less than one second after the handcuffing and the officer self-reported.



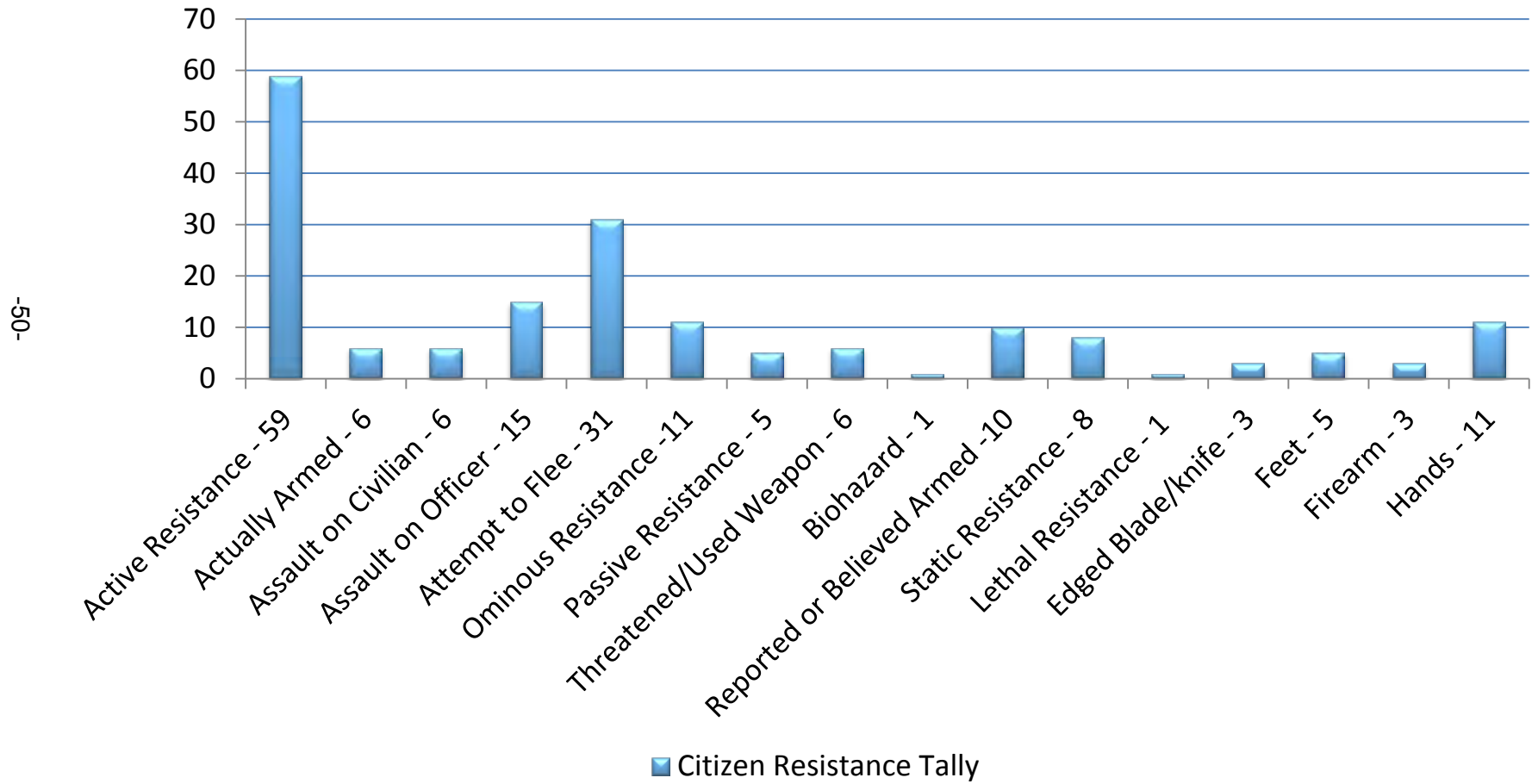


# Police Auditor's Report to City Council: January 21, 2015



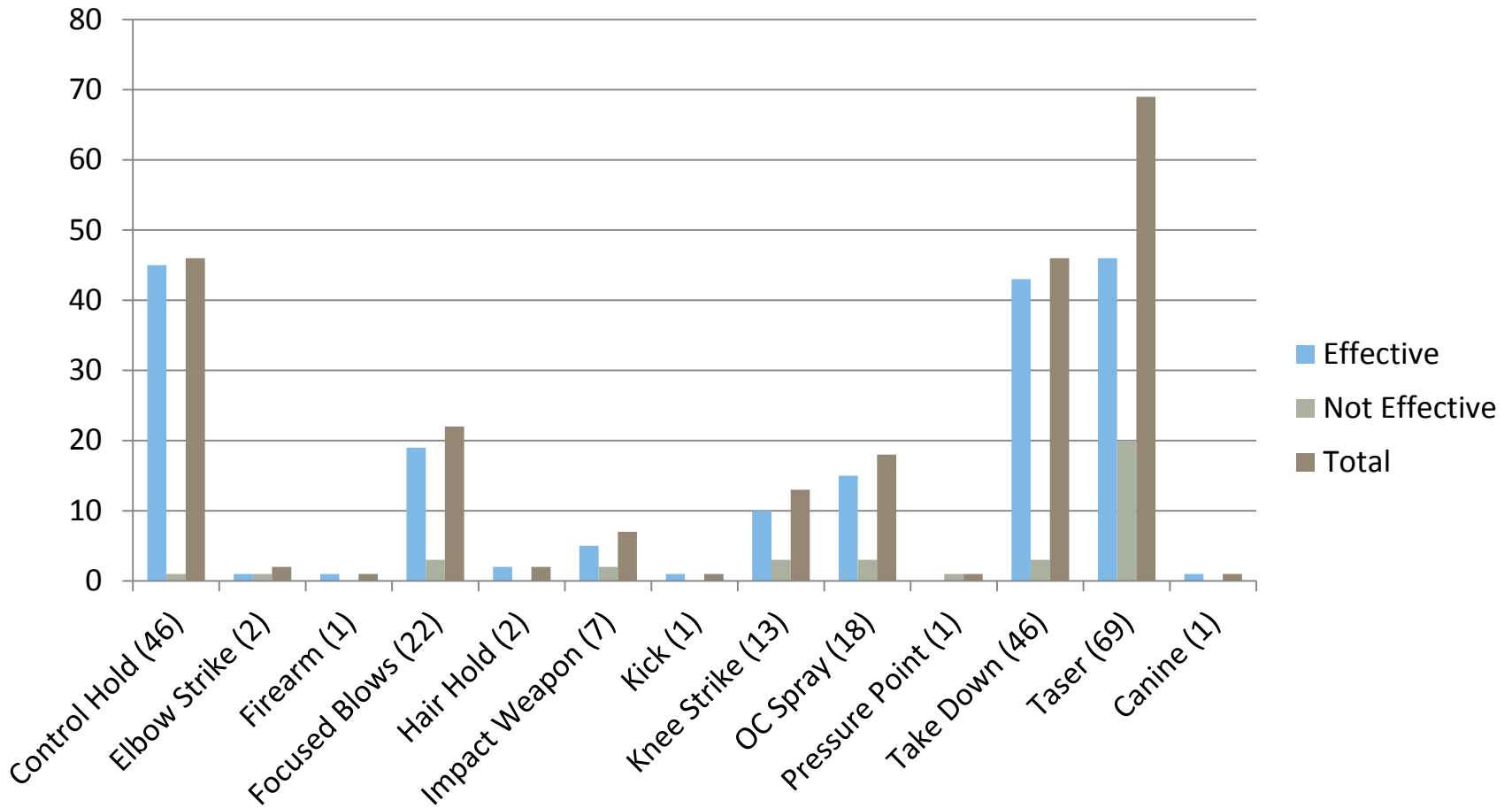
# Citizen Resistance Count

## 130 Use of Force Reports





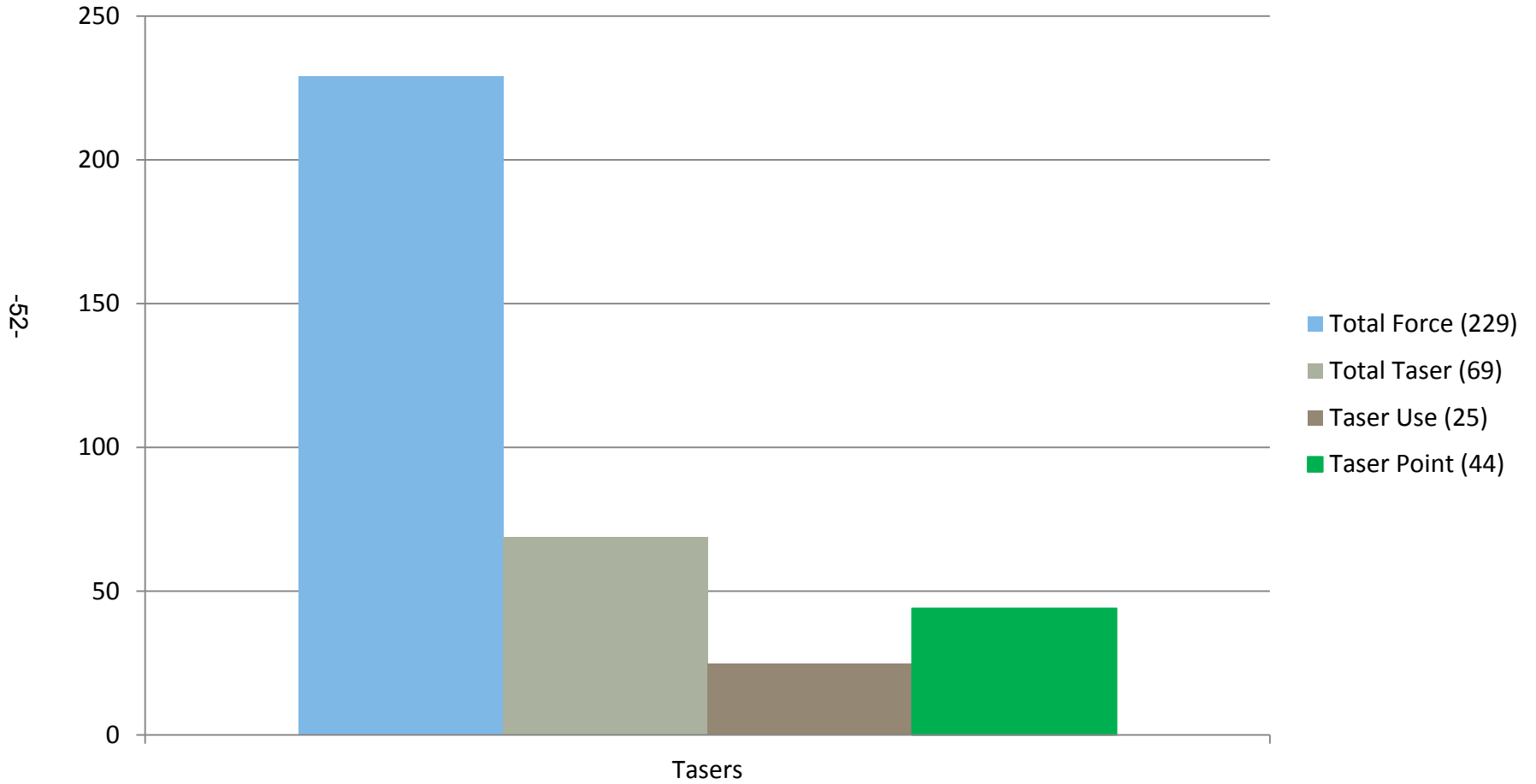
# Total Count of Force Used



-51-

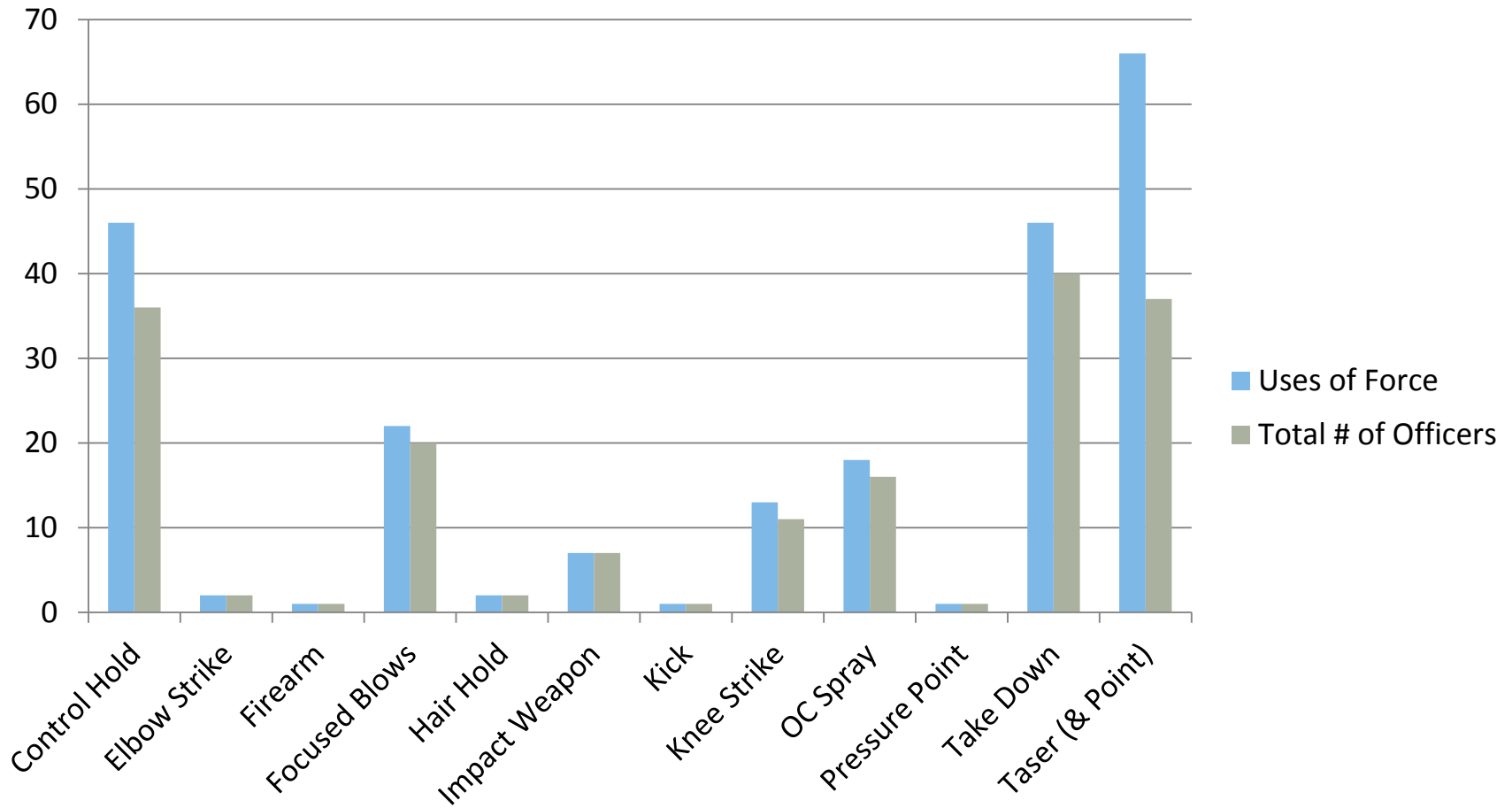


# Tasers





# Uses of Number of Officers

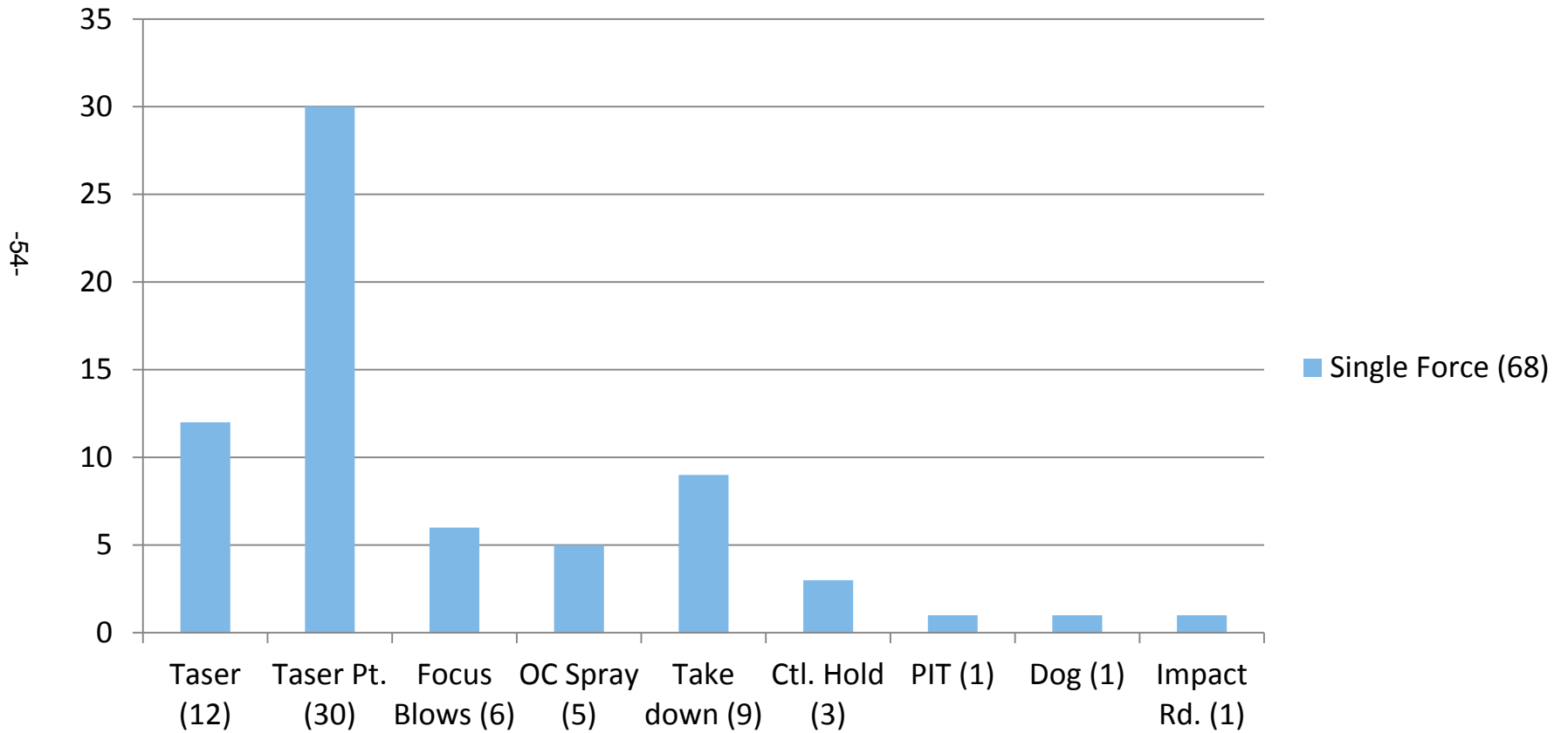


-53-



# Single Force (of 130 Incidents)

## Single Force (68)

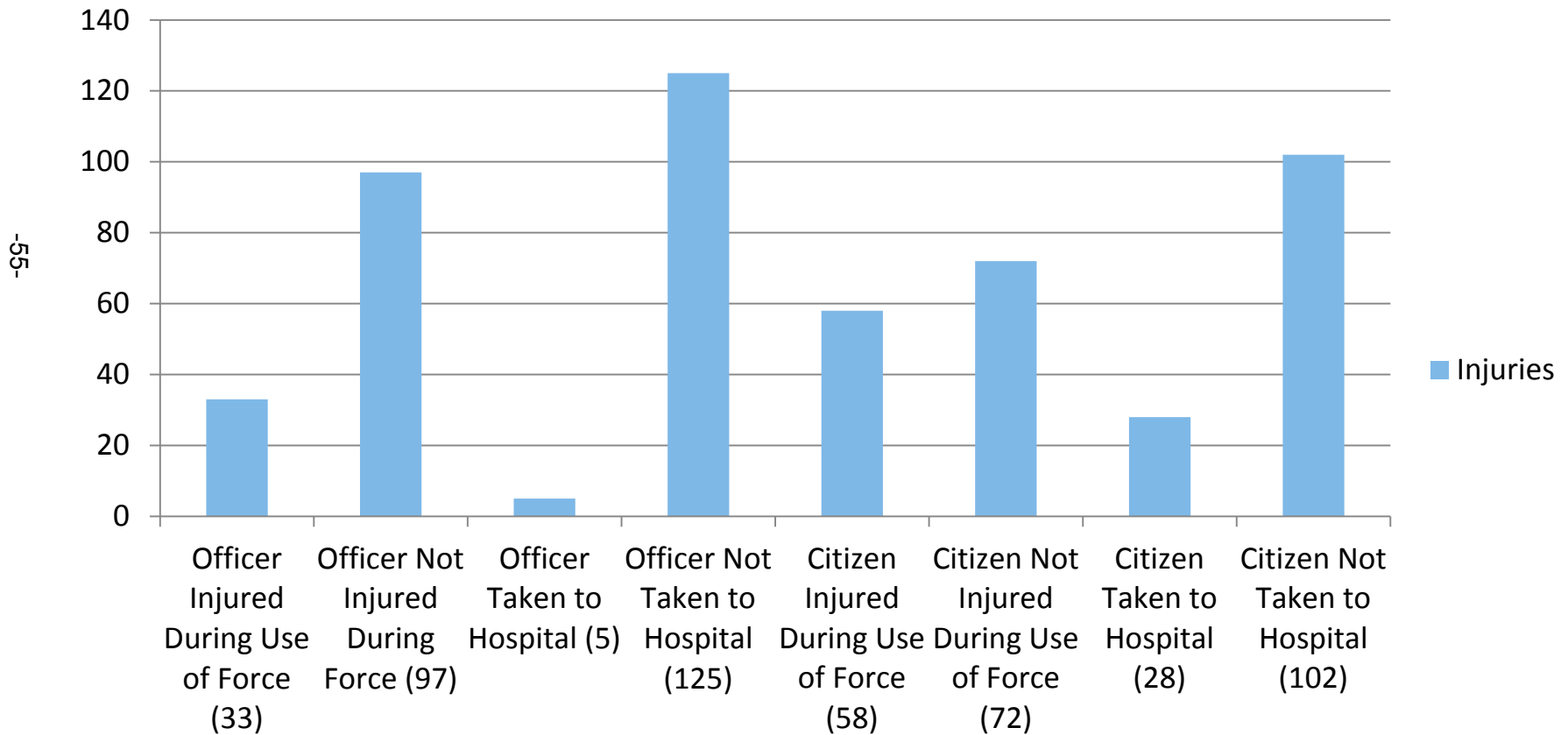






# Injuries to Officers and Arrestees

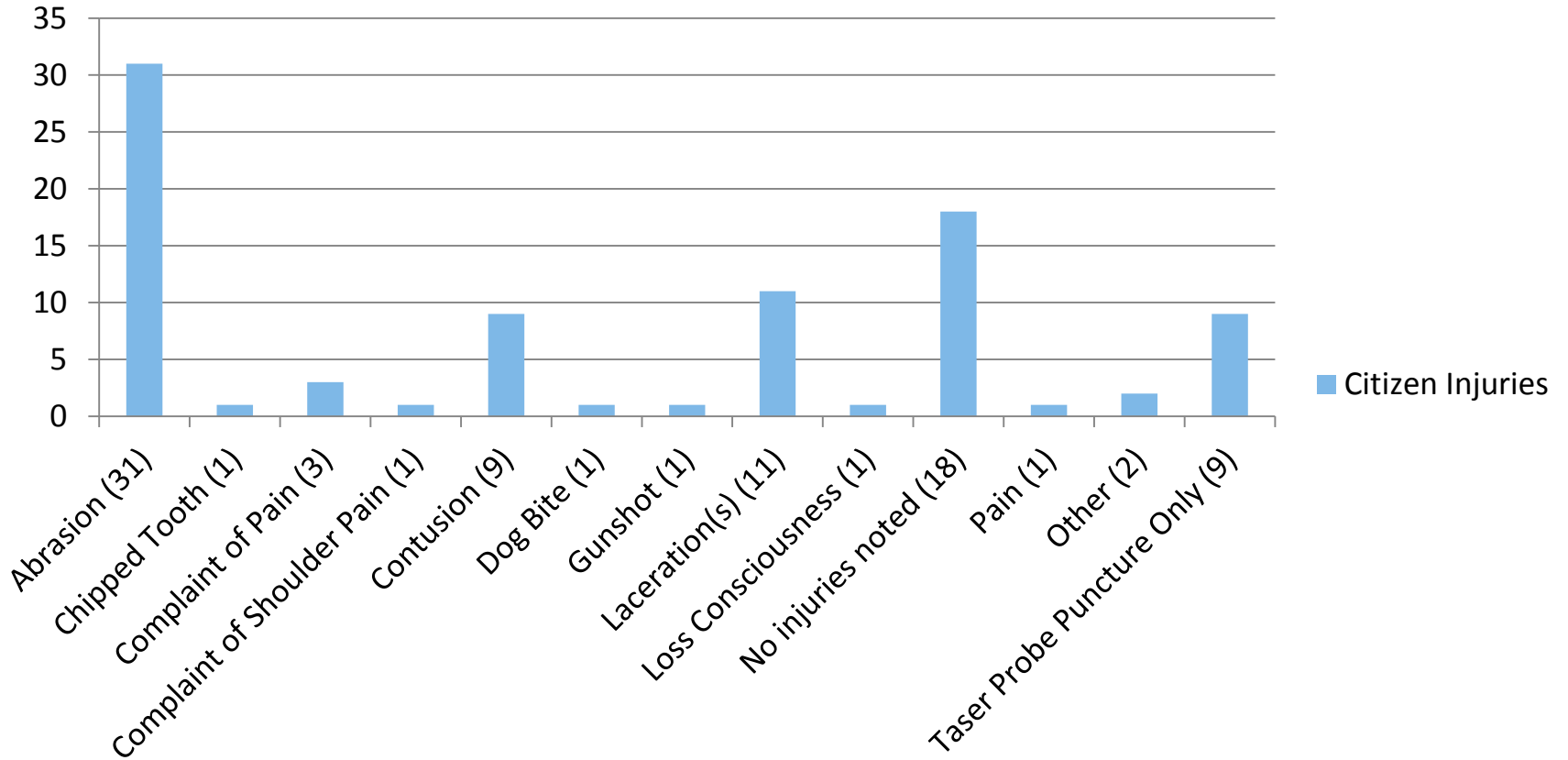
## Injuries





# Community Member Injuries

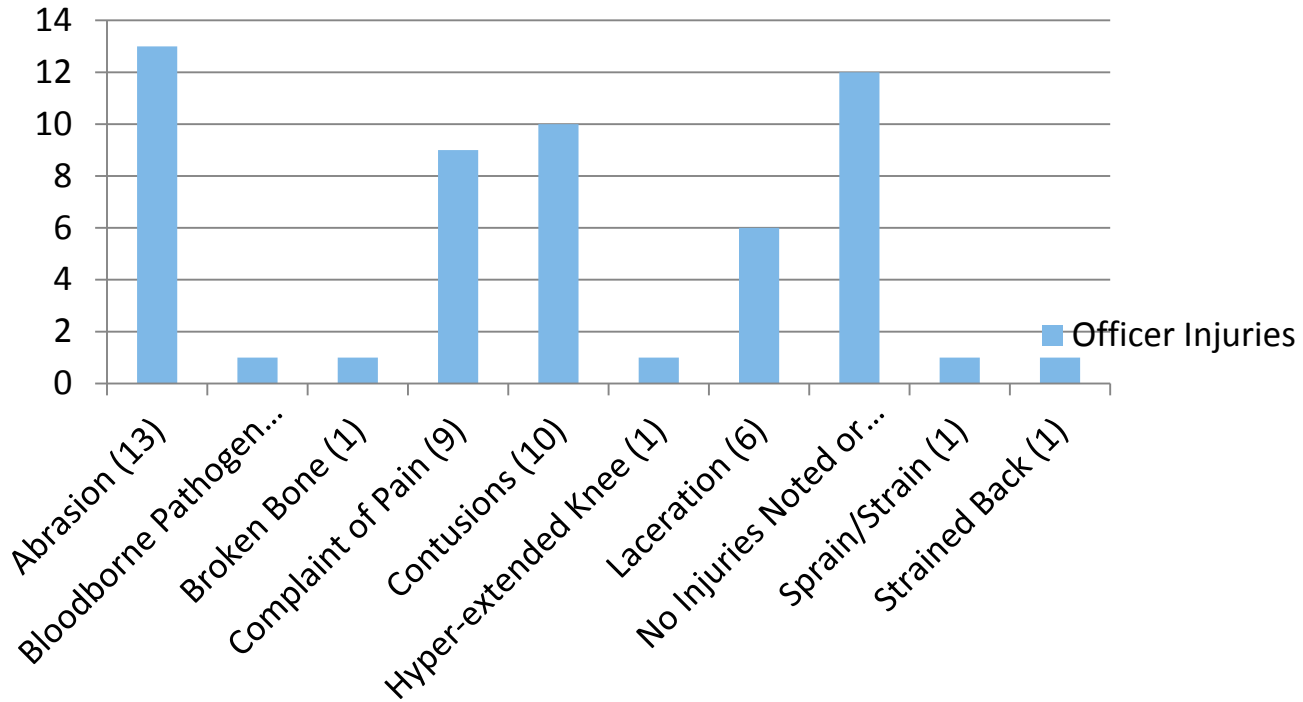
## Injuries





# Officer Injuries

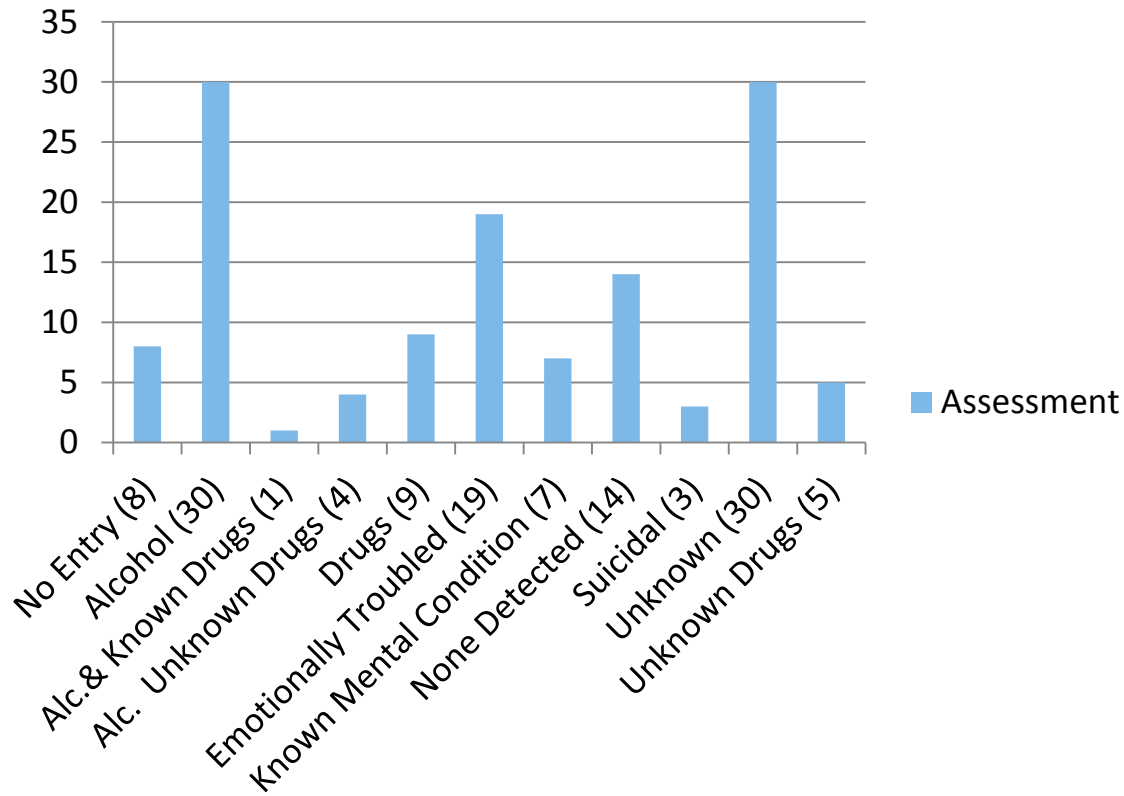
Officer Injuries





# Officer Assessment of Person's Condition

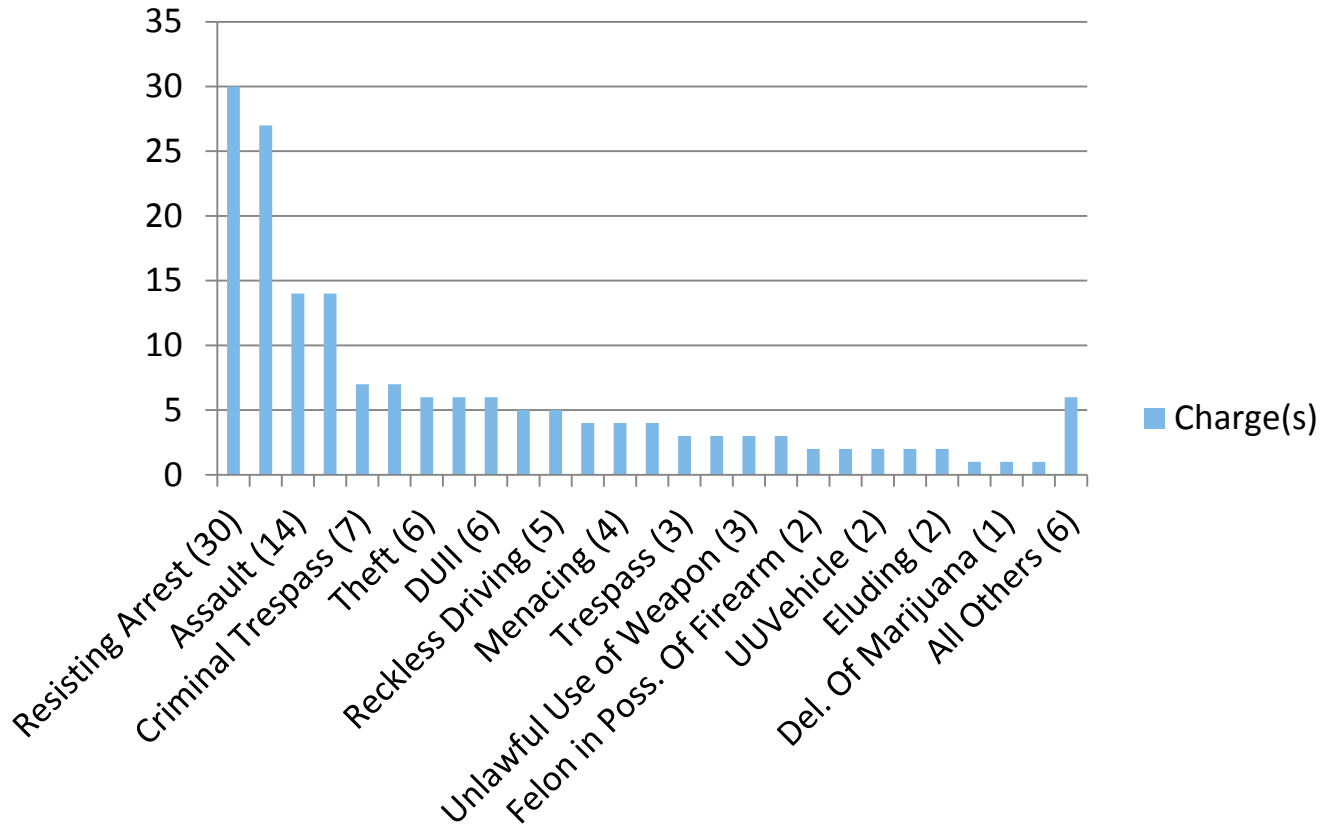
Assessment





# Charges

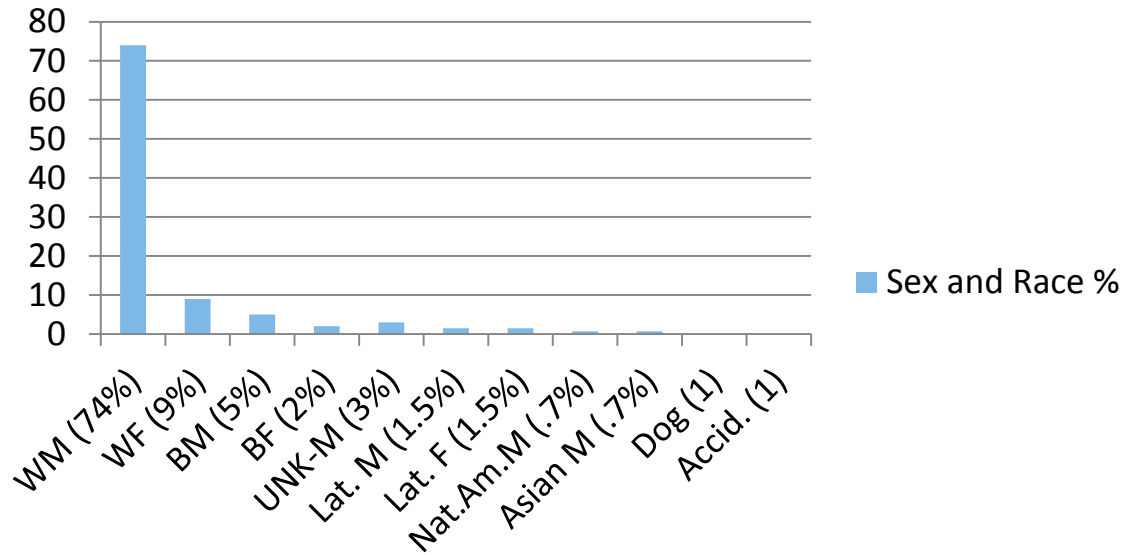
Charge(s)





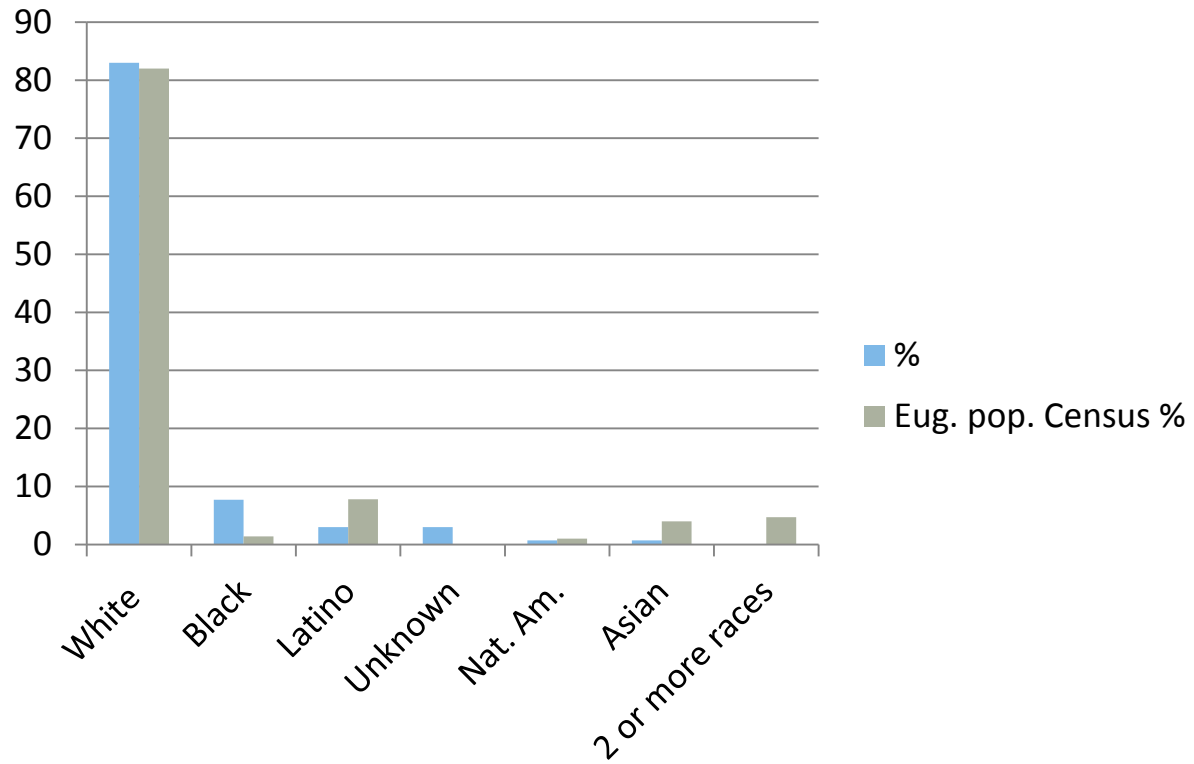
# Sex and Race (%)

Sex and Race %





# Race Only





# Questions?



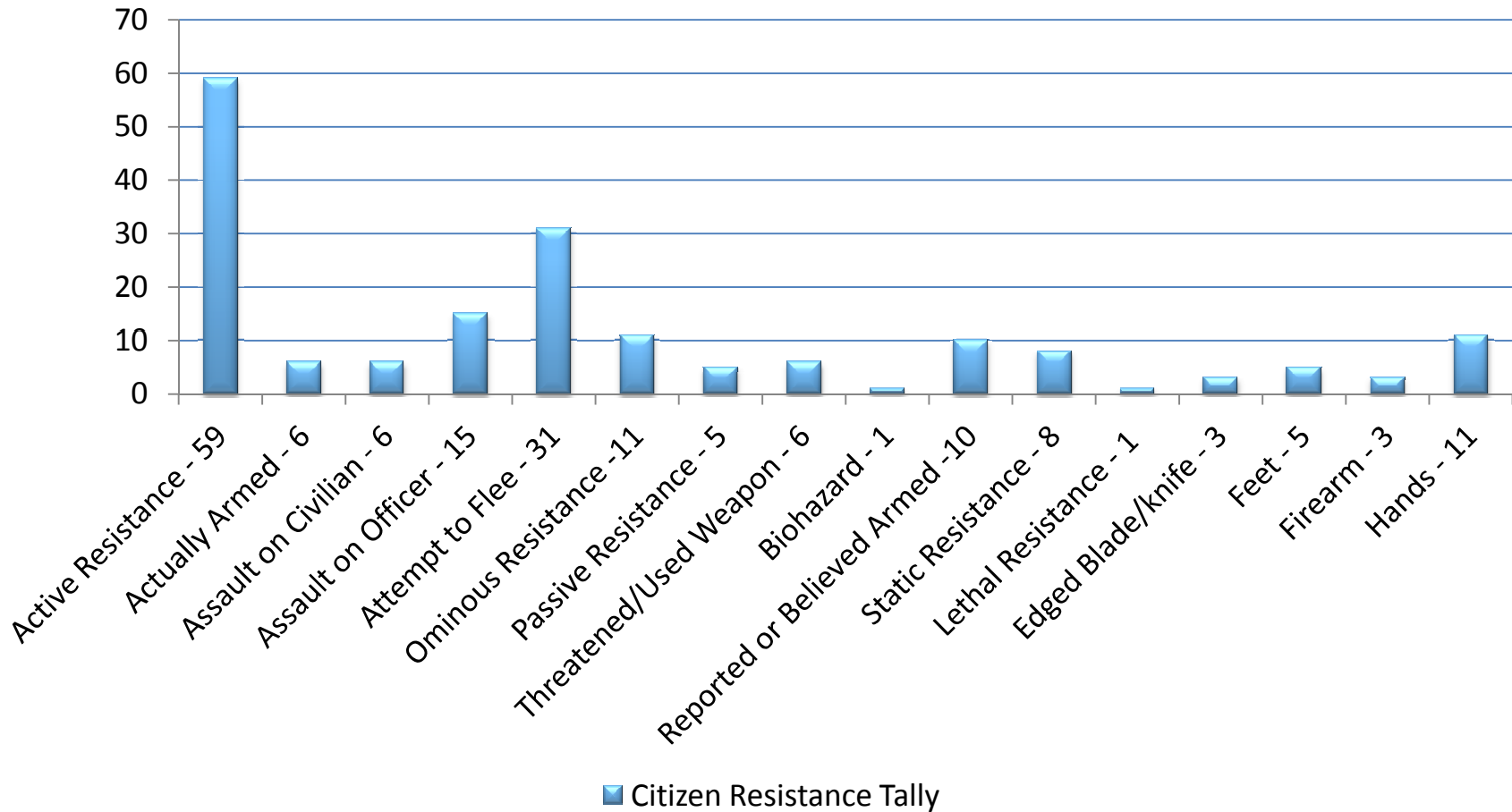


**Police Auditor's  
Report to City  
Council: January 21,  
2015**



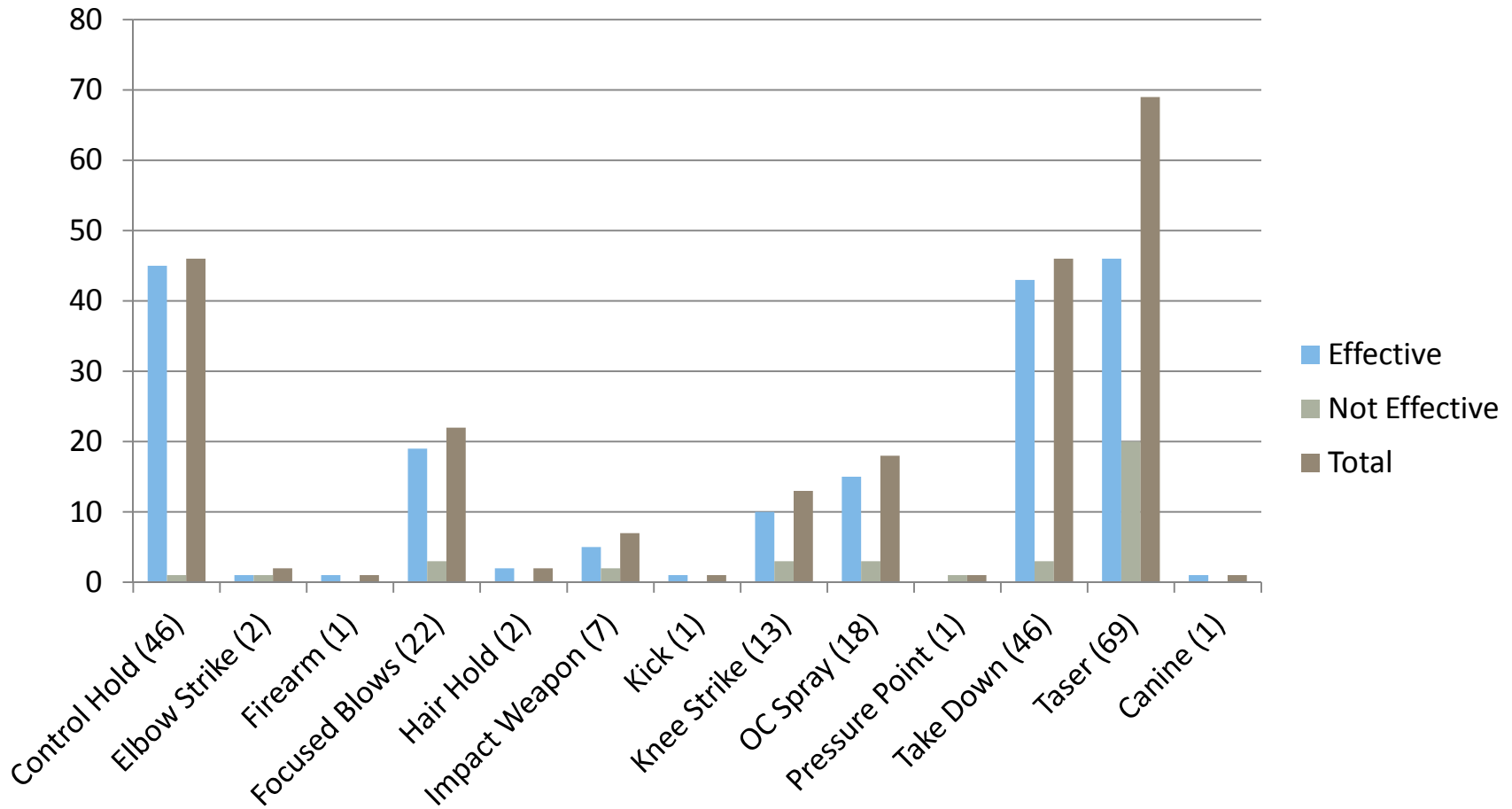
# Citizen Resistance Count

## 130 Use of Force Reports





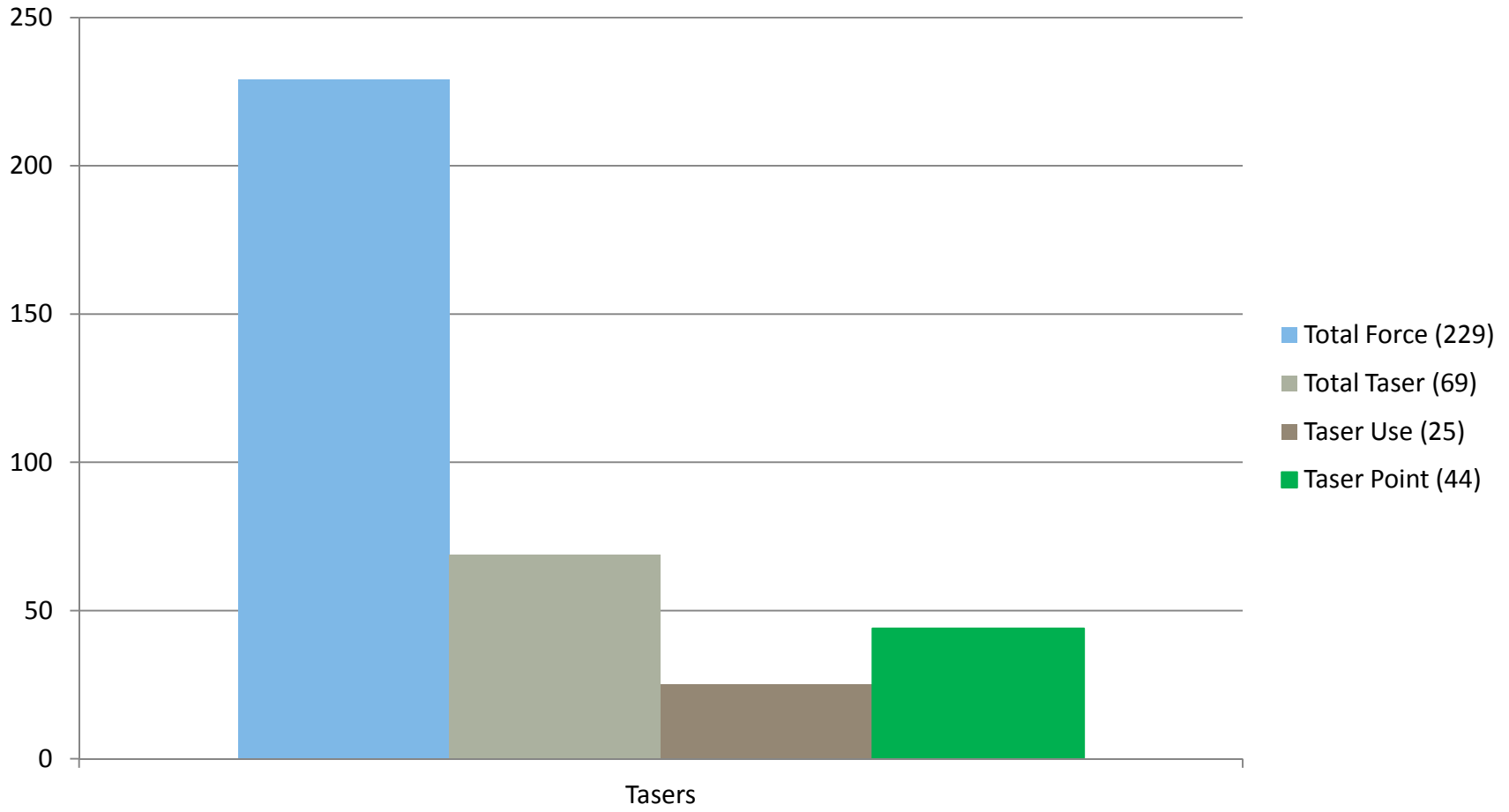
# Total Count of Force Used



-65-

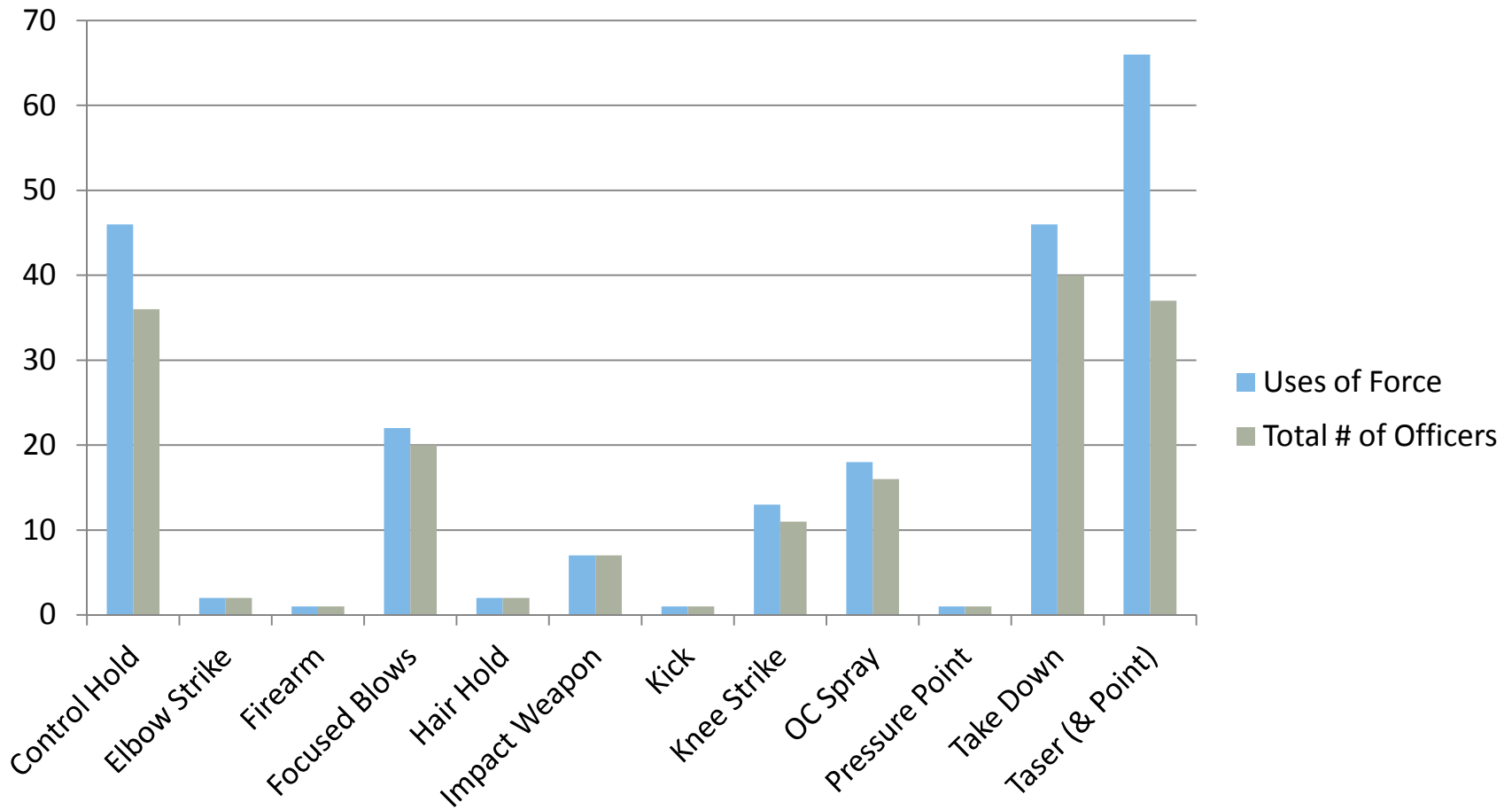


# Tasers





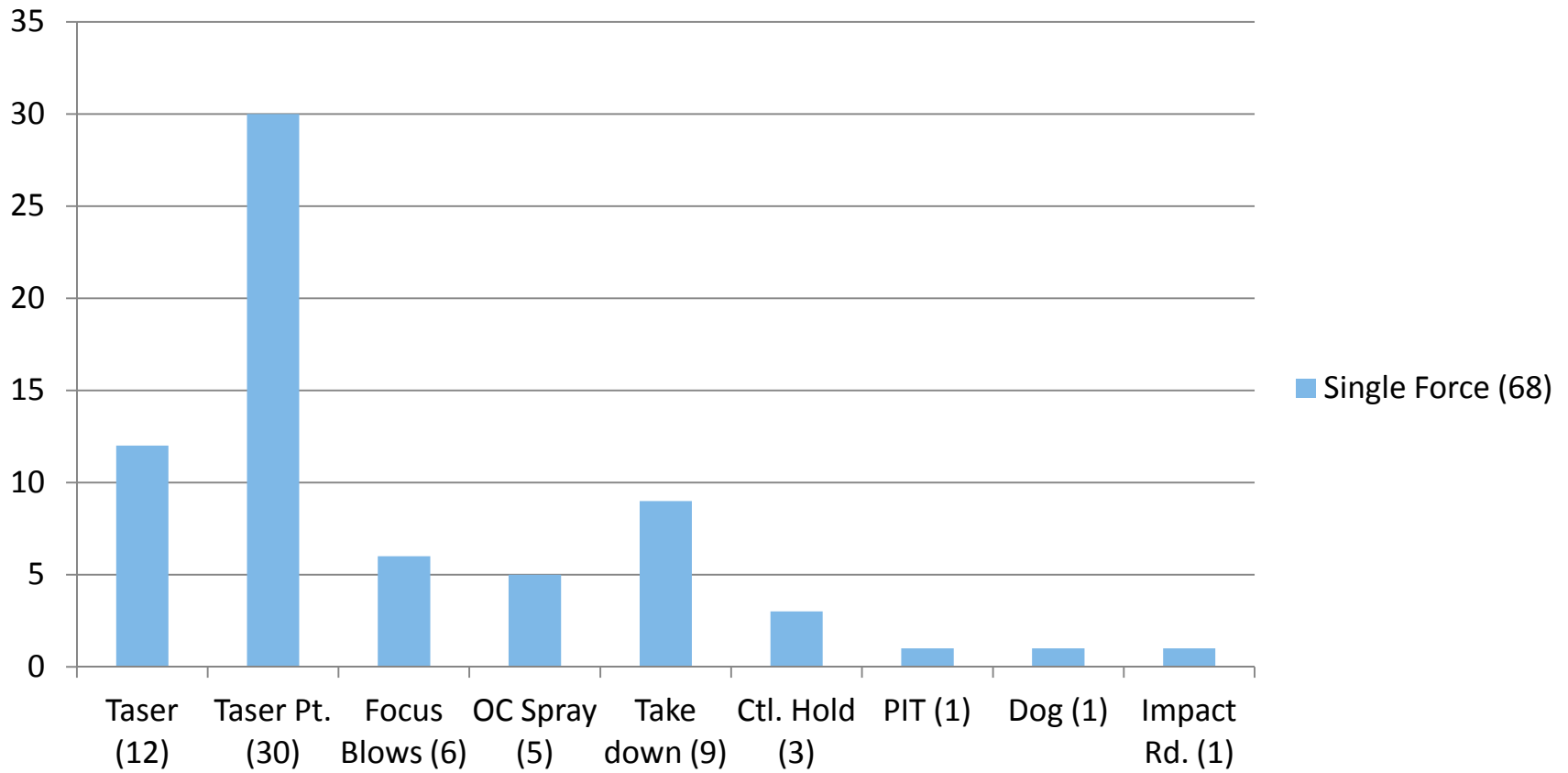
# Uses of Number of Officers





# Single Force (of 130 Incidents)

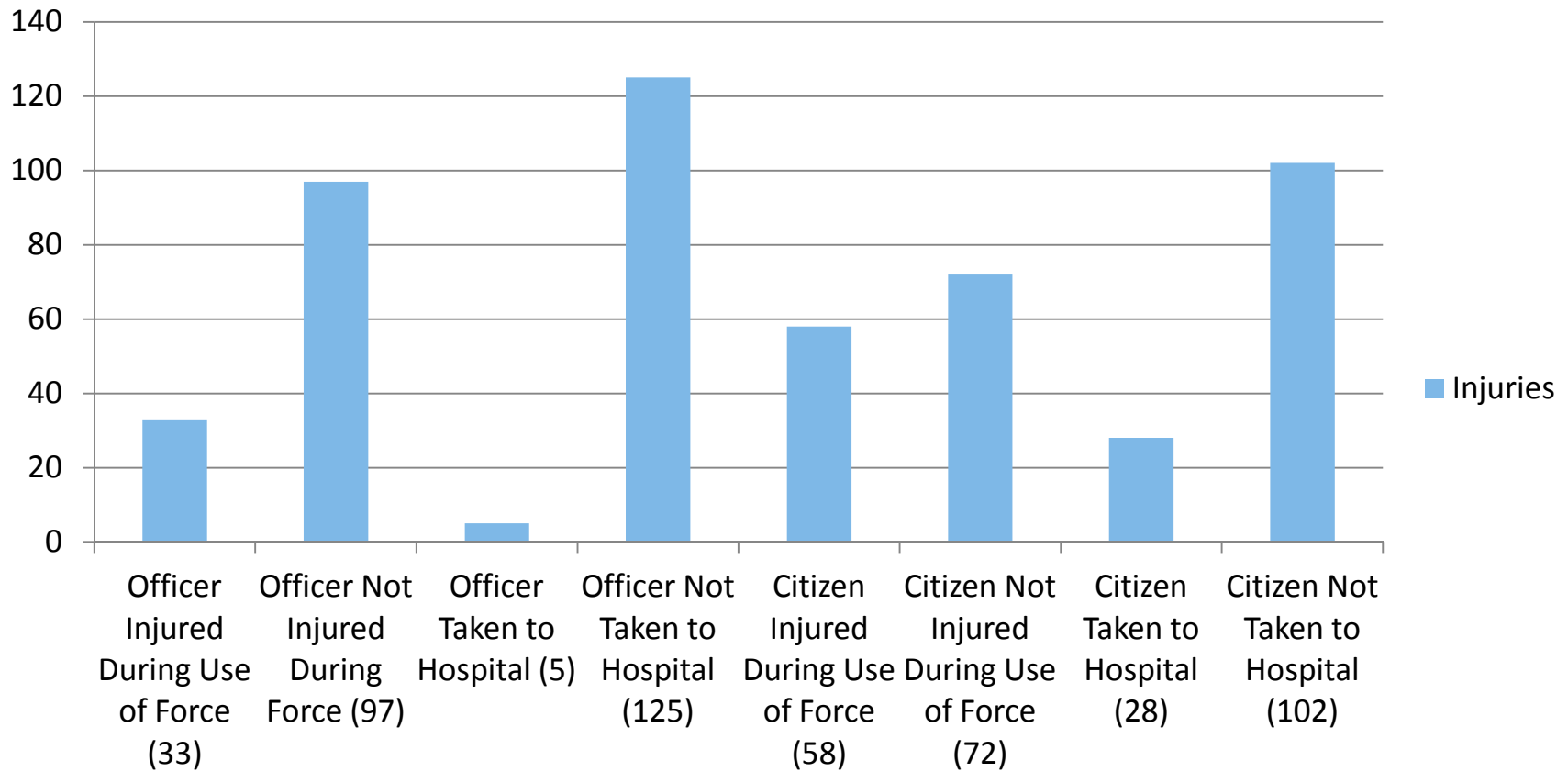
Single Force (68)





# Injuries to Officers and Arrestees

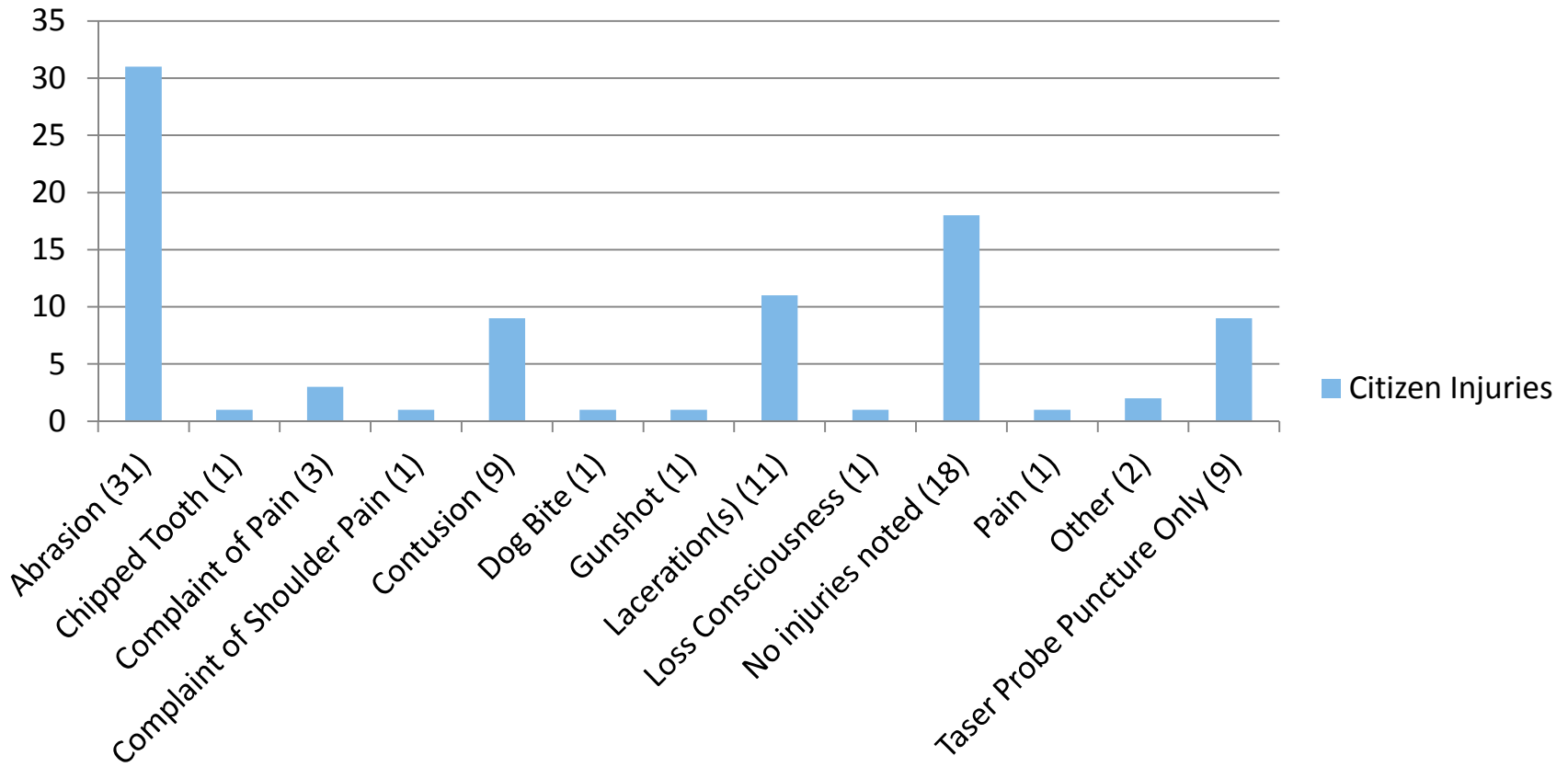
## Injuries





# Community Member Injuries

Injuries



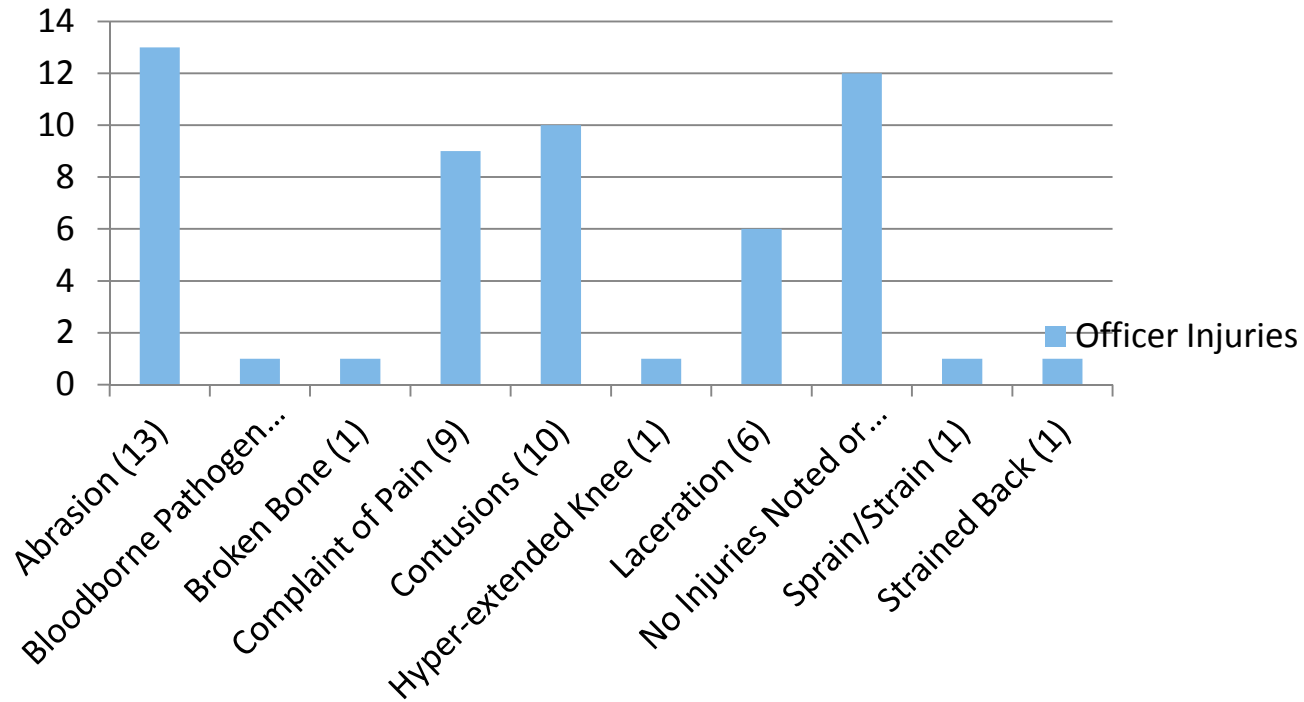
-70-





# Officer Injuries

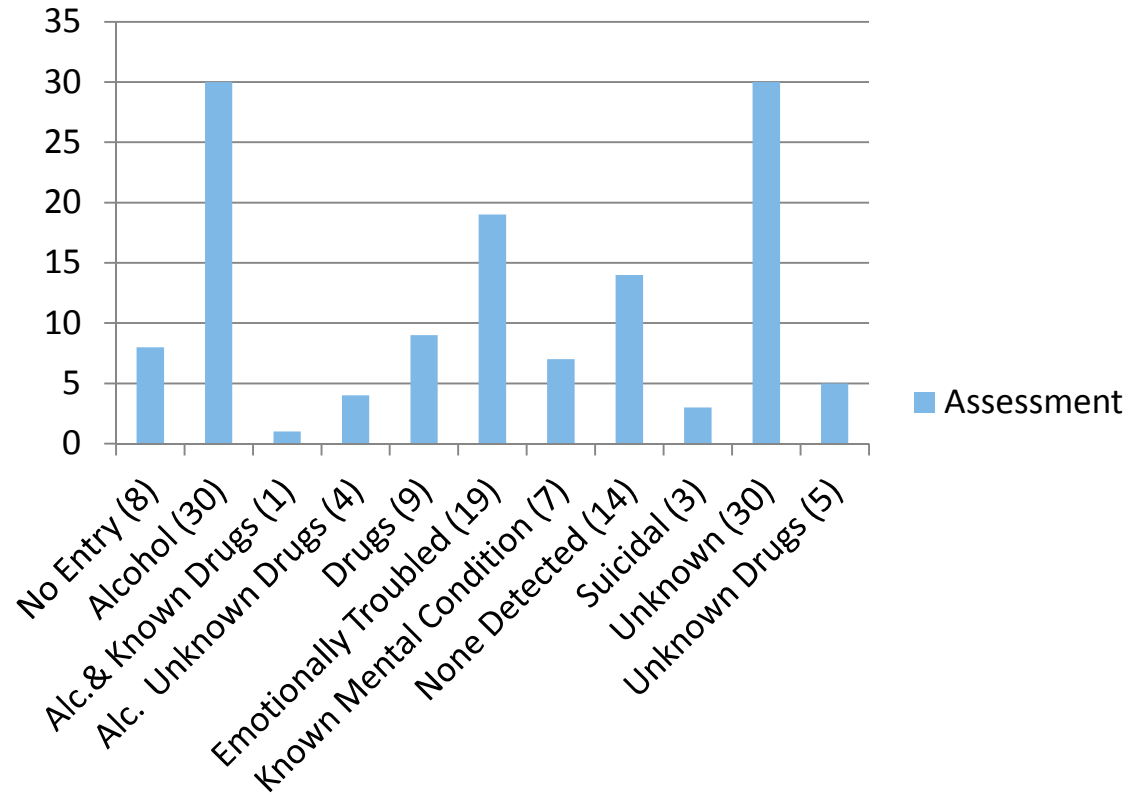
Officer Injuries





# Officer Assessment of Person's Condition

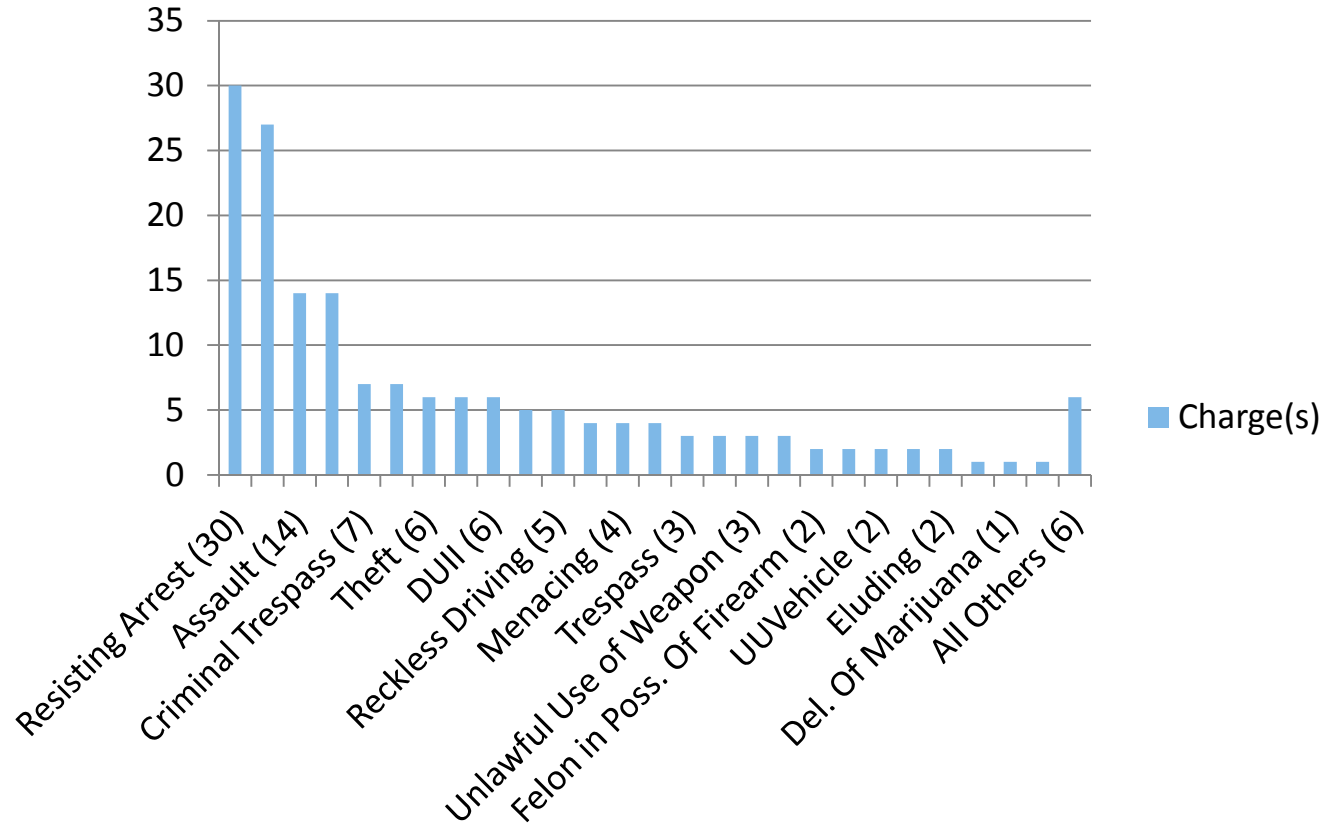
Assessment





# Charges

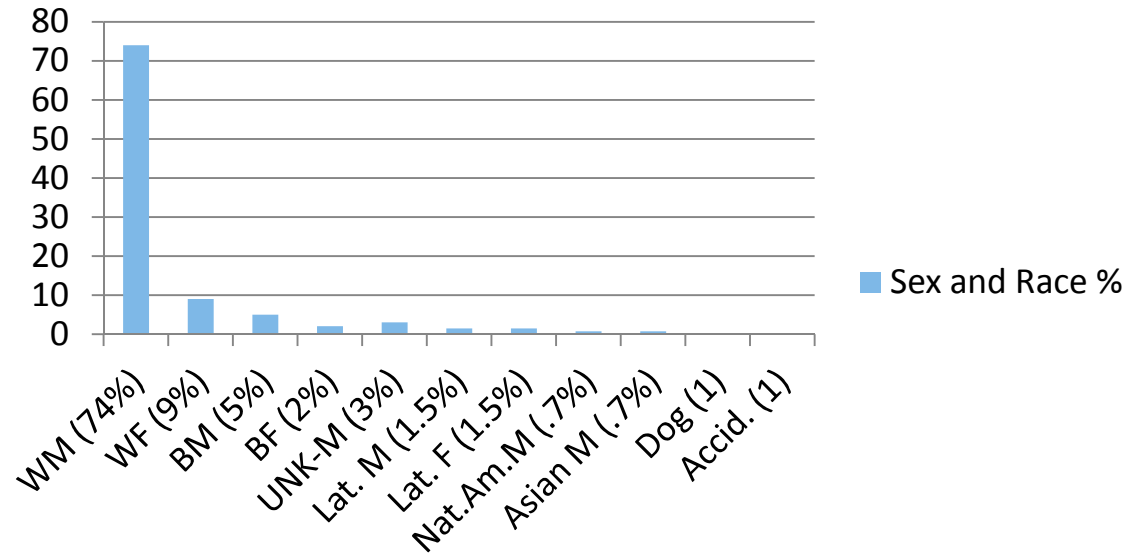
Charge(s)





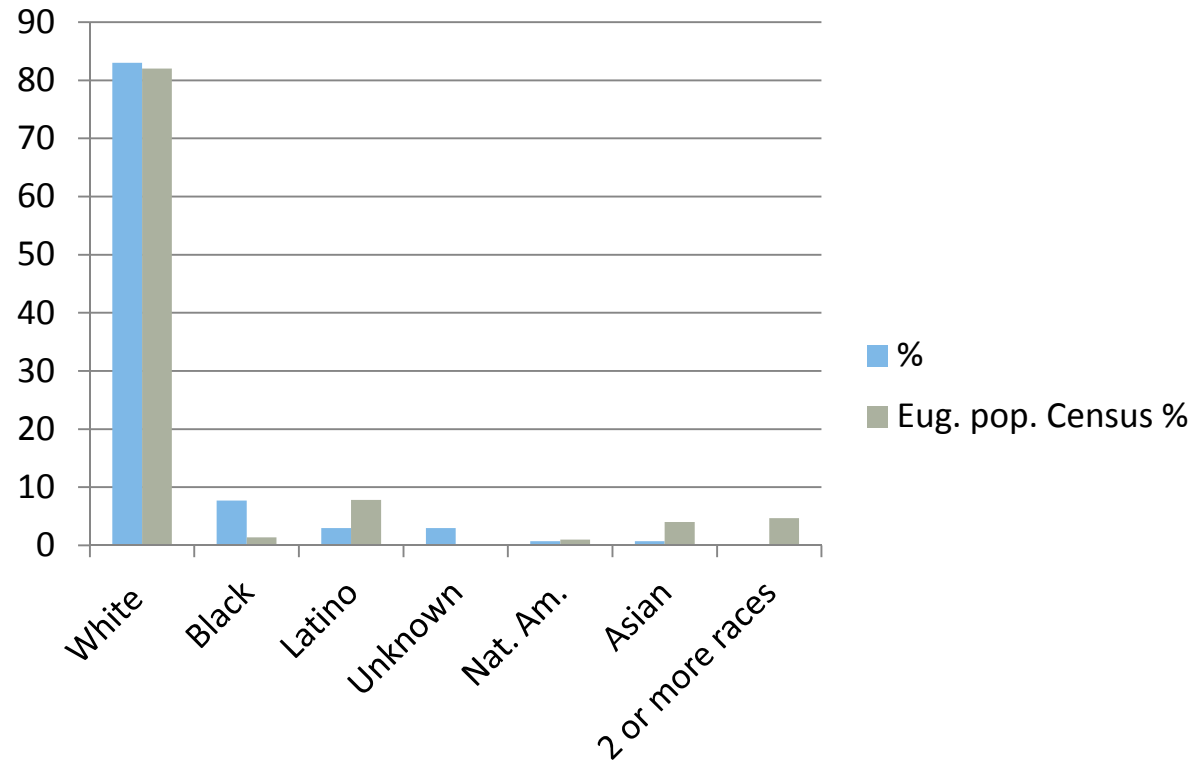
# Sex and Race (%)

Sex and Race %





# Race Only





# Questions?