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TO: Board Members

FROM: Marcos Soler, Acting Executive Director & DED for Policy, and Denis McCormick, Deputy Executive Director for Investigations

RE: Follow-up Report on Criminal Trespass Related Complaints in Patrolled Housing

DATE: May 31, 2013

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Since 2009, we have analyzed allegations of improper stop and question in which criminal trespass is cited as a reason for the police encounter. These complaints are filed by members of the public who have been questioned and/or stopped by police officers in and around New York City Housing Authority (NYCHA) buildings or private buildings participating in the *Formal Trespass Affidavit Programs* (FTAP), also known as *Clean Halls* buildings. Both are subject to interior vertical patrols by the NYPD and we refer to both as “patrolled housing.”

In September 2010, we completed the first systematic review of trespass related cases in patrolled housing. In that study, we focused our analysis on data from July 1, 2008 through October 31, 2009, a 16-month period. The findings of that study were then included in our testimony before the NYC Council Committees on Civil Rights, Public Safety and Public Housing on September 28, 2010 (the full testimony is available on the CCRB’s website, on the New Developments page).

We have now completed the second systematic review of trespass-related complaints. In this follow-up study, we analyzed data for another 16-month period, from July 1, 2010 through October 31, 2011. The main findings are included in this memoranda and its statistical appendix.

### **Background**

In our 2010 testimony, we informed council members that we had identified 76 criminal trespass related complaints that contained at least one allegation of improper stop and/or question at a patrolled housing location. In 23 cases, the allegations of improper stop and/or question were substantiated. This is a substantiation rate of 30%. In two additional criminal trespass cases, the board exonerated the allegations of improper stop and/or question but substantiated other allegations such as improper frisk or search.

At that hearing, we also informed council members of meetings with the NYPD where CCRB staff provided information about these improper stops and recommended retraining of police officers. In June 2010, the police department accepted our recommendations, revised its guidelines on interior vertical patrols and, later that year, retrained housing police officers who patrol NYCHA buildings.

In 2012, we began our second systematic review of trespass related complaints in patrolled housing. The focus was on the period after the department revised its Patrol Guide provisions governing vertical patrols in NYCHA buildings. This allowed us to compare findings before and after the department's revisions were implemented. Because our Case Tracking System (CTS) is not currently set up to capture whether an "incident" location is in a NYCHA or a Clean Halls building, we have manually examined all cases with a stop or question allegation to gather a subset of cases stemming from police encounters at patrolled housing locations.

### **Statistical Findings – July 1, 2010 through October 31, 2011**

During this time period, the CCRB received 666 complaints with at least one allegation of improper stop and/or question where complainants were willing to go forward with an investigation or mediation. Out of 666 cases, we identified 59 complaints in which criminal trespass is cited by the officer(s) as a reason for the police encounter. Fifty-eight have been fully investigated and one was mediated. The Board has reached a disposition in all 58 cases.

The number of improper stop and question complaints has decreased by 22%, from 76 complaints in the 2010 study to 59 complaints in the 2012 study. Also, civilians filed fewer and fewer complaints as time progressed. If one divides the 16 month study into four four-month periods, a significant 50% reduction is found when the first two periods (July 2010-February 2011) are compared to the last two periods (March-October 2011). Civilians filed 18 complaints in the first period; 19 complaints in the second; 13 in the third period; and 9 complaints in the fourth.

In 23 cases out of the 58 fully investigated complaints, the allegations of improper stop and/or question were substantiated. This is a substantiation rate of 40%. It is a 10% higher rate than the substantiation rate reported in the 2010 study. In four additional criminal trespass cases, the board did not substantiate the allegations of improper stop and/or question, but did substantiate other allegations such as improper frisk or search.

The substantiation rate for the 2012 sample is twice as high as the substantiation rate of 19% for complaints of improper stop and/or question stemming from locations other than patrolled housing.

These 59 complaints of criminal trespass consist of 88 allegations of improper stop and/or question. The CCRB substantiated 34 allegations of improper stop and/or question (39%); exonerated 29 allegations (33%); unsubstantiated 16 allegations (18%); and 9 allegations (10%)

were closed with other findings such as mediation, officer unidentified or an officer no longer is a member of service.

Those 88 allegations of improper stop and/or question were made against 81 officers. Forty-three percent of subject officers were white, 34% were Hispanic, 20% were black and 3% were Asian. Ninety-nine percent of officers were male.

By rank of the officer, 78% of subject officers held the rank of Police Officer, 14% were Sergeants, 4% were Detectives, and 4% were Lieutenants.

By tenure of the officer, 5% of officers had less than 2 years of service, 12% had between 2 and 3 years, 34% had between 4 and 5 years, 19% had between 6 and 7 years, and 30% had more than eight years of service.

By assignment of the subject officer, 38% of officers were assigned to Patrol Borough Bronx, 20% to the Housing Bureau, 10% to Patrol Borough Queens South, 9% to Patrol Borough Brooklyn North, 6% to Organized Crime, 4% to Patrol Borough Manhattan North, 4% to both Patrol Borough Brooklyn South and Patrol Borough Queens North and 1% to Patrol Borough Manhattan South. In 5% of cases, the assigned command is unknown.

The Board substantiated allegations against 41 officers. It substantiated improper stop and/or question allegations against 32 officers and substantiated other types of allegations against 9 officers such as frisk, search or physical force. At the time of this report, the police department has reached a disposition against 36 officers and 5 cases against officers are pending disposition. The department gave instructions to 21 officers and command discipline to three officers. Two officers plead guilty. The department declined to prosecute the allegations against eight officers, the statute of limitations expired against one officer and charges were 'filed' against one officer who is no longer a member of service. This is a discipline rate of 74% and a Department Unable to Prosecute (DUP) rate of 23%.

By comparison, in the 2010 report, the Board substantiated allegations against 36 officers. It substantiated allegations against 34 officers for improper stop and/or question and substantiated other types of allegations against 2 officers such as frisk or refusal to process a complaint. The police department has reached a disposition in cases against 34 officers and two cases are currently pending disposition. The department gave instructions to 23 officers, command discipline to four officers and declined to prosecute cases against six officers. One officer was found not guilty after trial. This is a discipline rate of 79% and a DUP rate of 18%.

The police department argues that the CCRB has erred by including in this report those cases where the Department declined to prosecute the substantiated complaint, or where the statute of limitations expired, nine cases in total. The department's argument is that during the disciplinary review of CCRB substantiated cases, they determined that the officers in these cases conducted a proper stop and/or question. It is our view that the report provides the reader with the relevant information regarding these police-civilian encounters: the number of

complaints filed by civilians, the Board's findings of misconduct and the disciplinary actions taken by the Department.

The demographics of the alleged victims are slightly different from the larger universe of improper stop and question cases stemming from incidents at other locations. In our study, 88% of alleged victims are male, 68% are black and 30% are Hispanic. One-third of alleged victims are under 25-years old and one-quarter are between 41 and 50 years old. By comparison, in all other stop and question complaints, 82% of alleged victims are male, 63% are black and 21% are Hispanic. The proportion of alleged victims who are between 41 and 50 years old is 14%.

An analysis of incident locations revealed that the alleged victim was exiting the building in 53% of cases; inside the building in 29% of cases; outside the building in 15% of cases (i.e., the civilian was walking past or not immediately entering or exiting the building); and 3% of incidents occurred while the alleged victim was entering the building.

By comparison, in the 2010 study, in 45% of cases the alleged victim was inside the building, 33% of incidents occurred while the victim was exiting the building, 11% occurred when the alleged victim was entering the building, and 11% occurred outside the building.

The distribution of such encounters, by borough of occurrence, was as follows: 47% of trespass-related complaints occurred in the Bronx; 22% in Brooklyn; 19% in Manhattan; and 12% in Queens. There were no complaints in Staten Island.

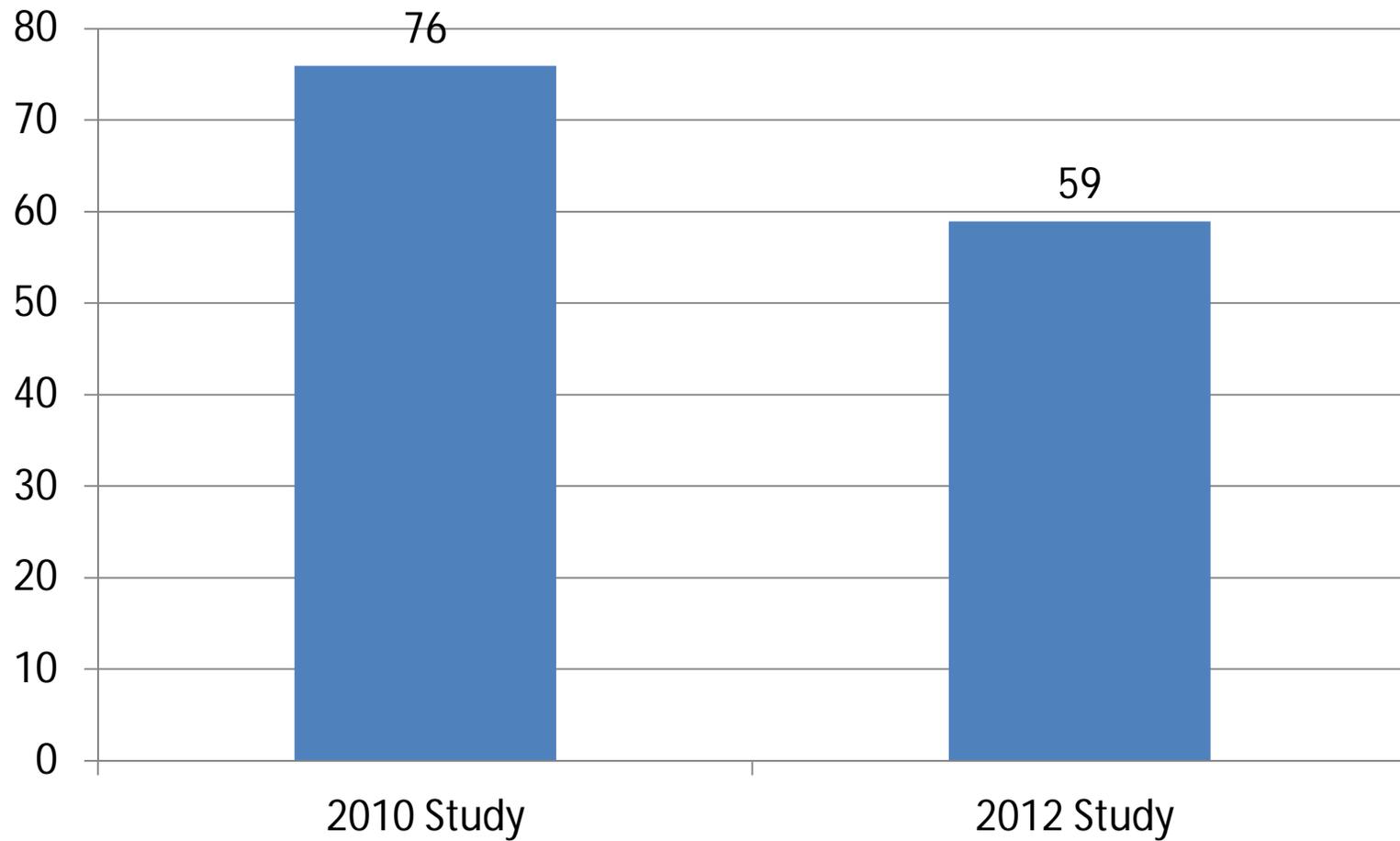
By type of building, 49% of incidents took place at NYCHA housing and 51% took place at *Clean Halls* buildings. When limited to the 23 substantiated cases, 48% of incidents took place at NYCHA housing and 52% took place at *Clean Halls* buildings.

By borough, 73% of incidents in Manhattan took place at or around NYCHA housing, compared to 62% in Brooklyn, 39% in the Bronx, and 29% in Queens. In the first study, 64% of incidents occurred at NYCHA housing while only 36% took place at *Clean Halls* buildings.

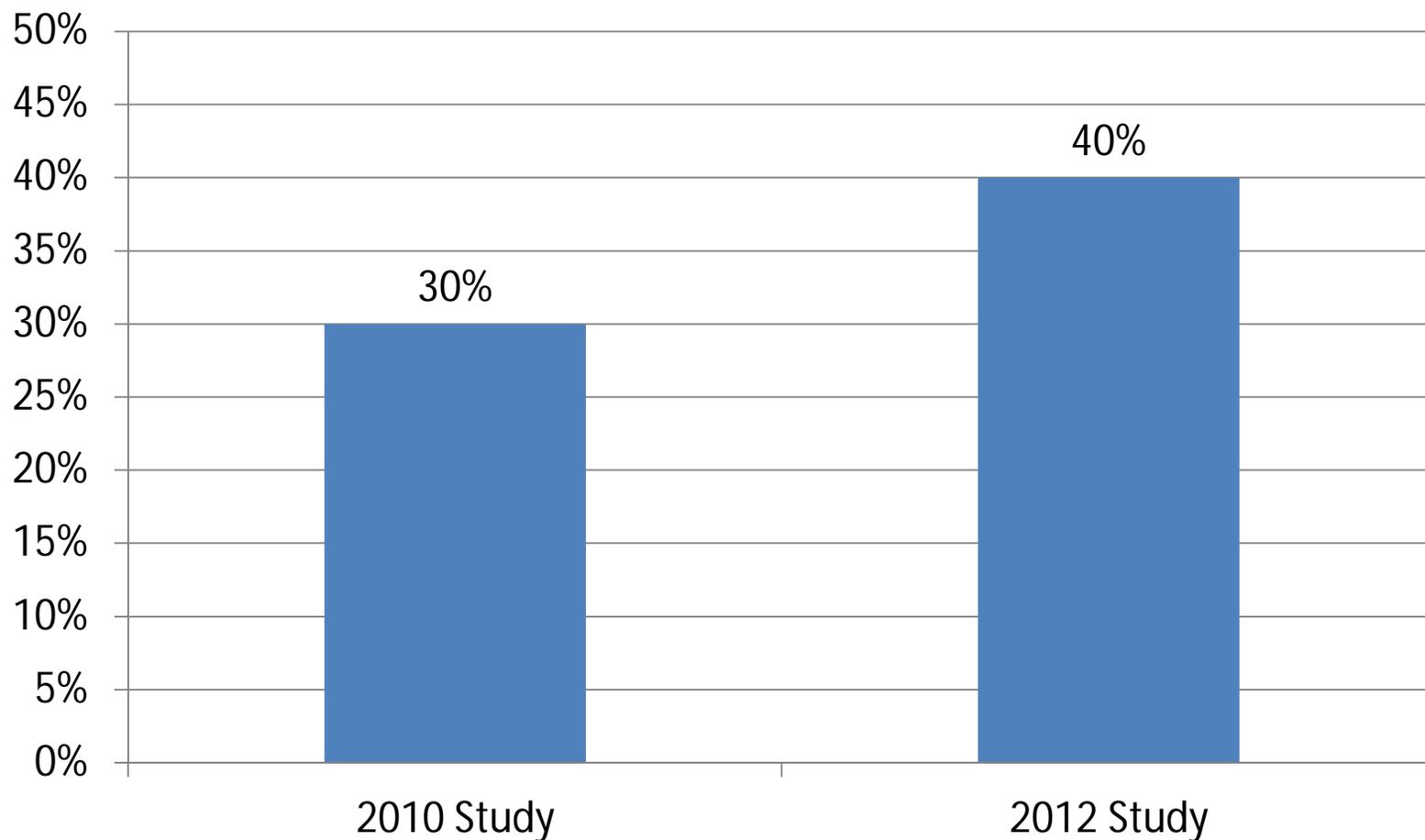
The encounters that led to those 59 full investigations resulted in a greater rate of arrests or summonses - 54% at patrolled housing locations versus 42% at other locations. A Notice of Claim was filed in 15% of cases in the 2012 study, up from 5% in the 2010 study.

# Report on Criminal Trespass-Related Complaints in Patrolled Housing – Statistical Appendix

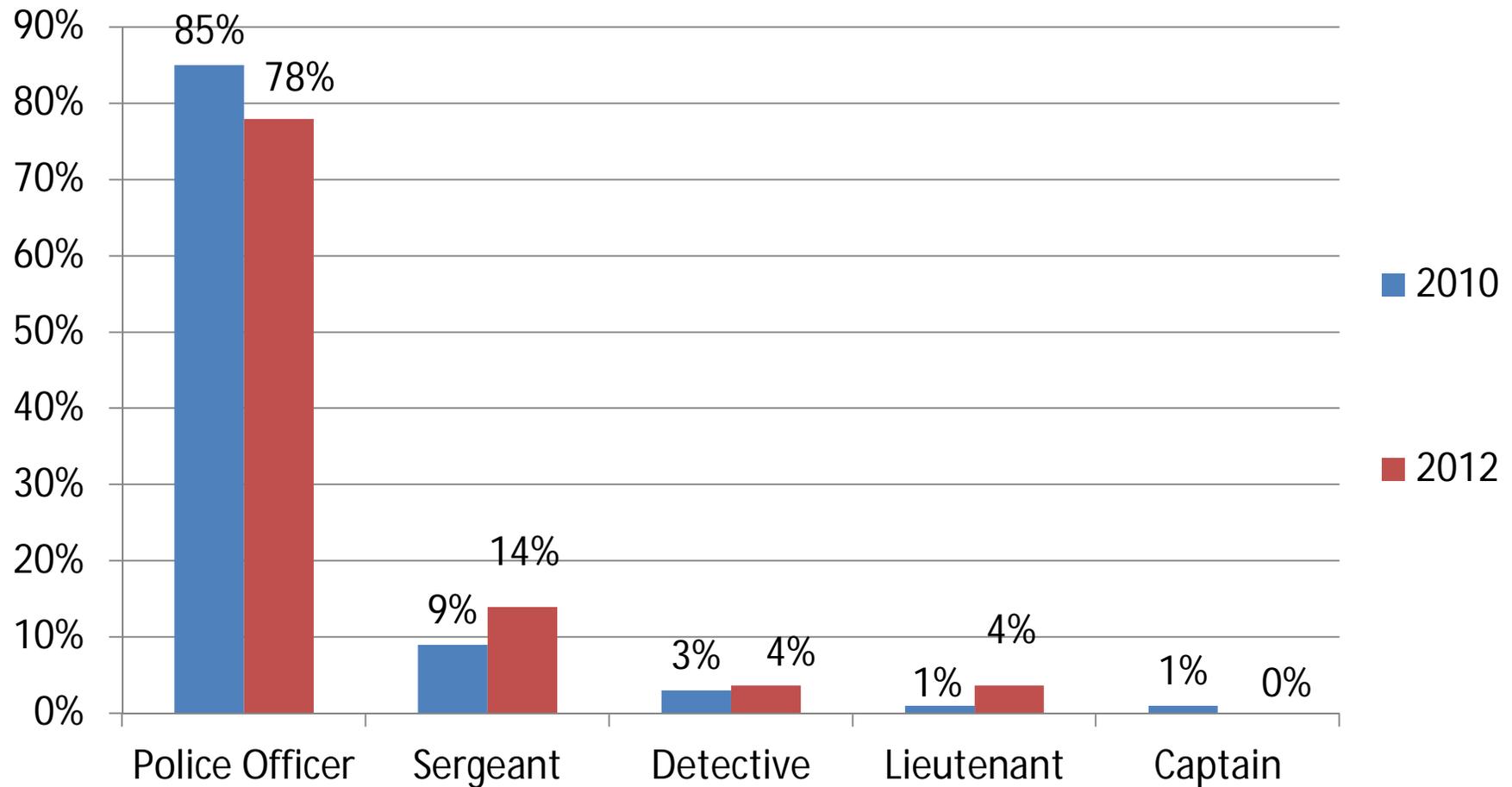
# Number of Stop and Question Complaints in Patrolled Housing



# Substantiation Rate in Cases with Stop or Question Allegations in Patrolled Housing

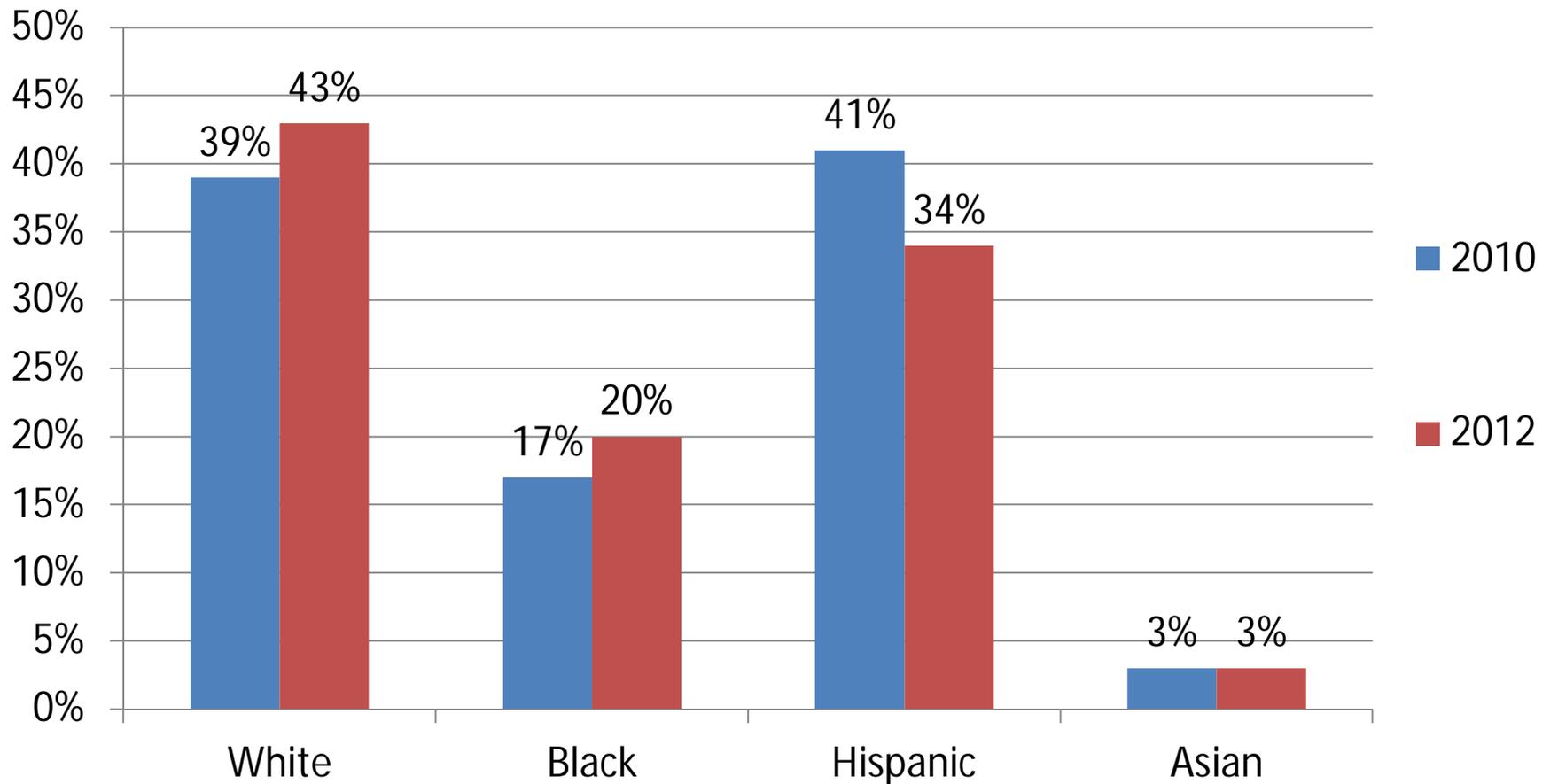


# Subject Officers by Rank



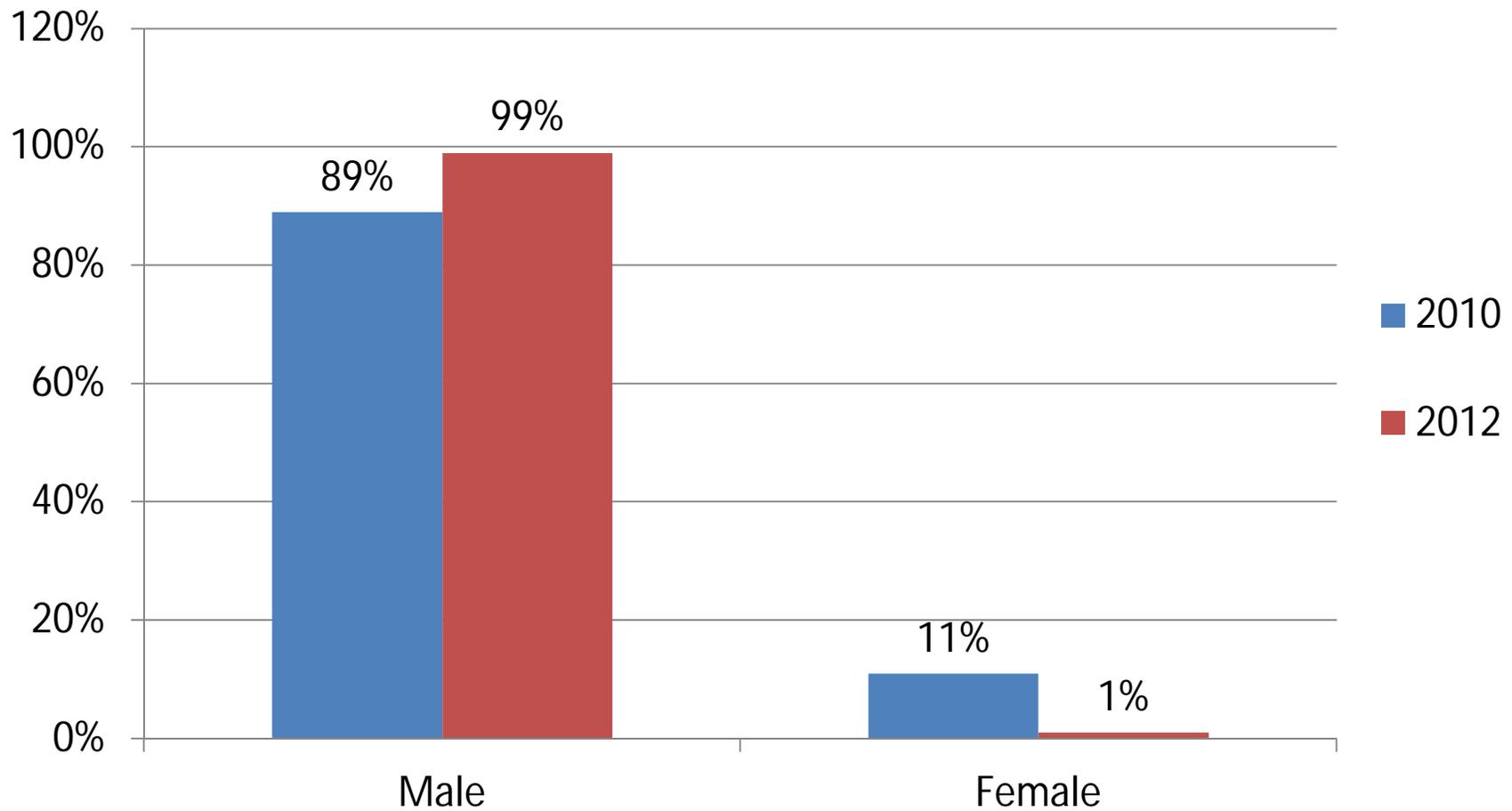
*\*Statistics show percentages of cases where rank of subject officers are known. Percentages may not sum to 100% due to rounding.*

# Subject Officers by Race and Ethnicity



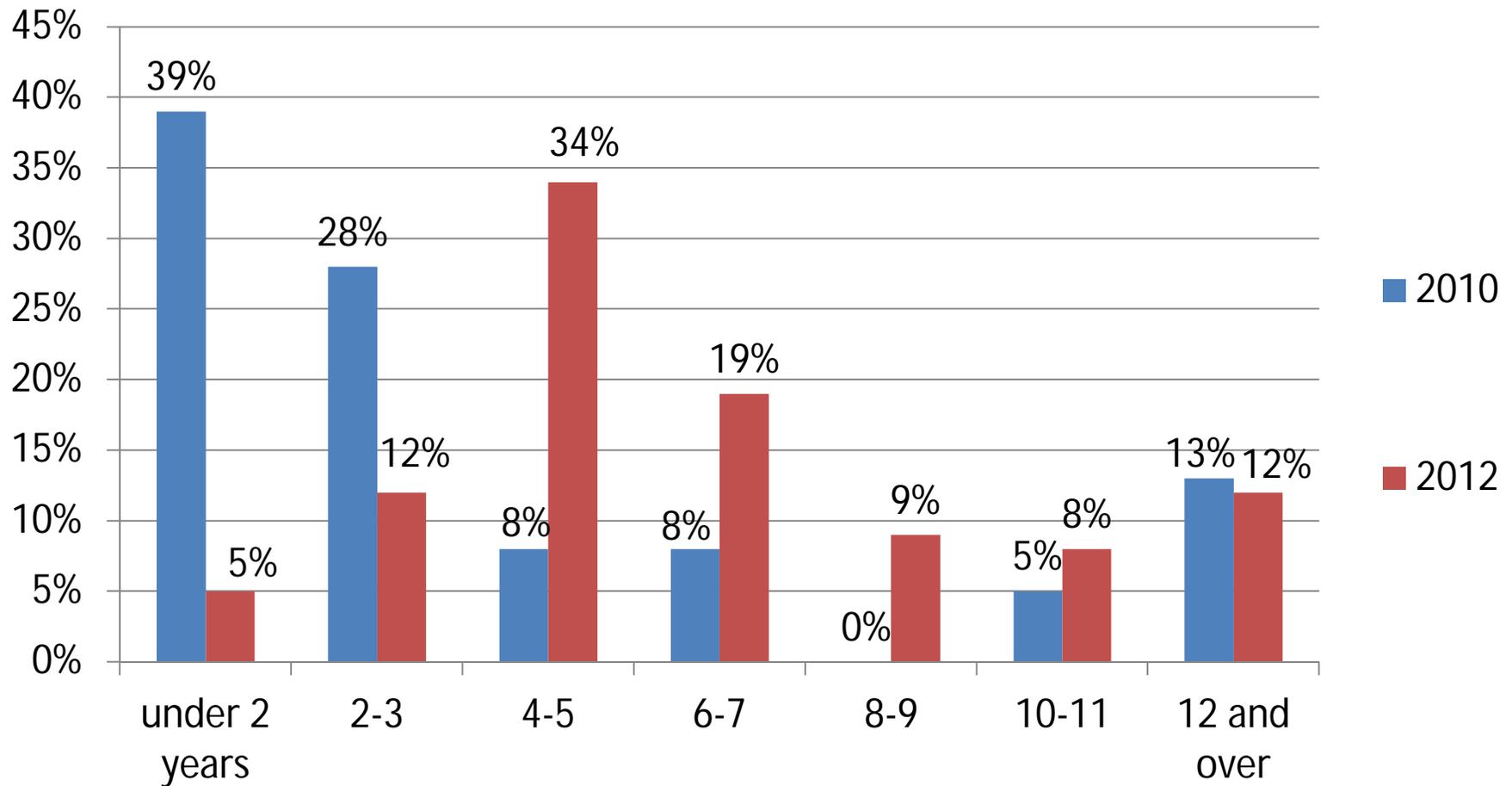
*\*Statistics show percentages of cases where race and ethnicity of subject officers are known.*

# Subject Officers by Gender



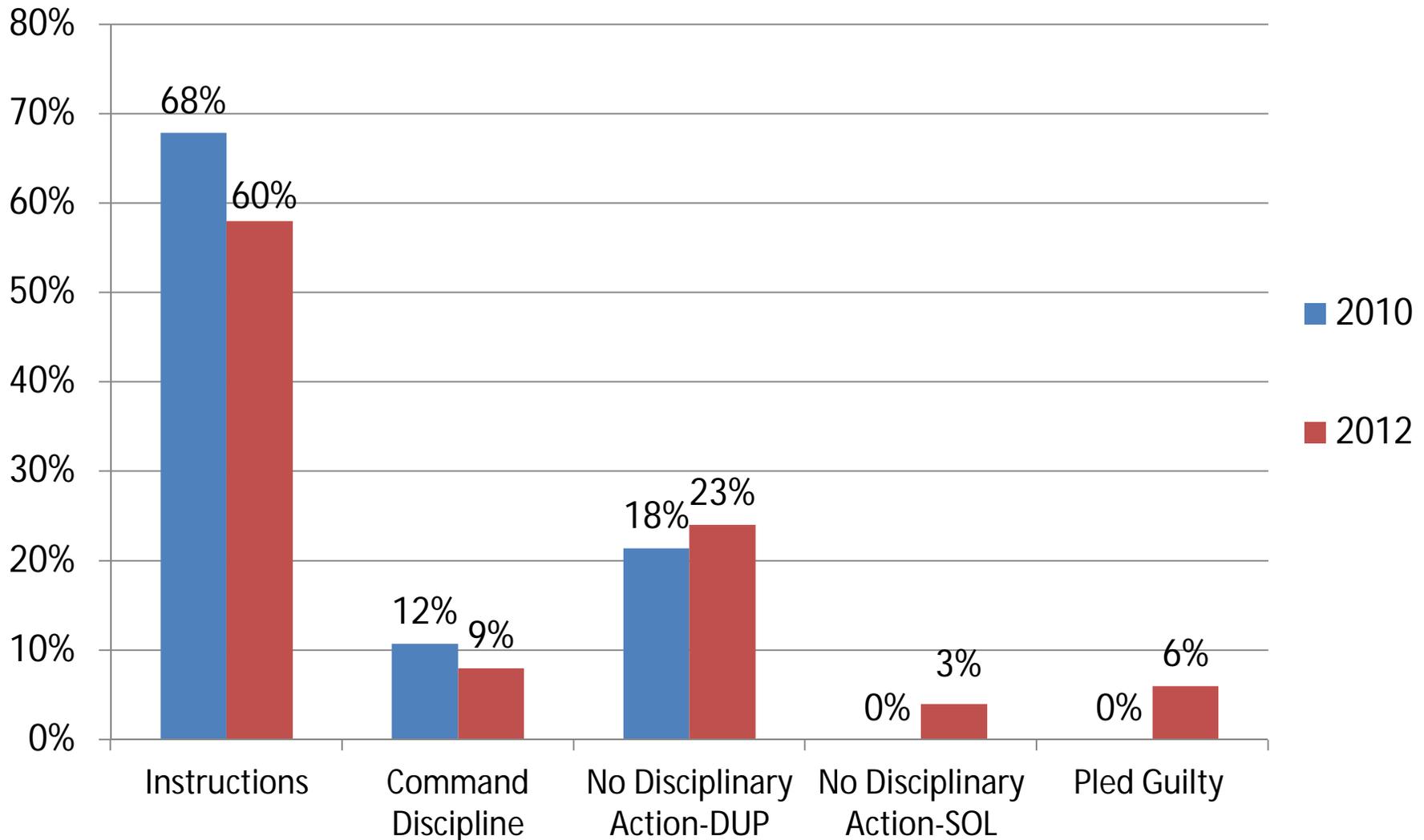
*\*Statistics show percentages of cases where gender of subject officers is known.*

# Subject Officers by Tenure

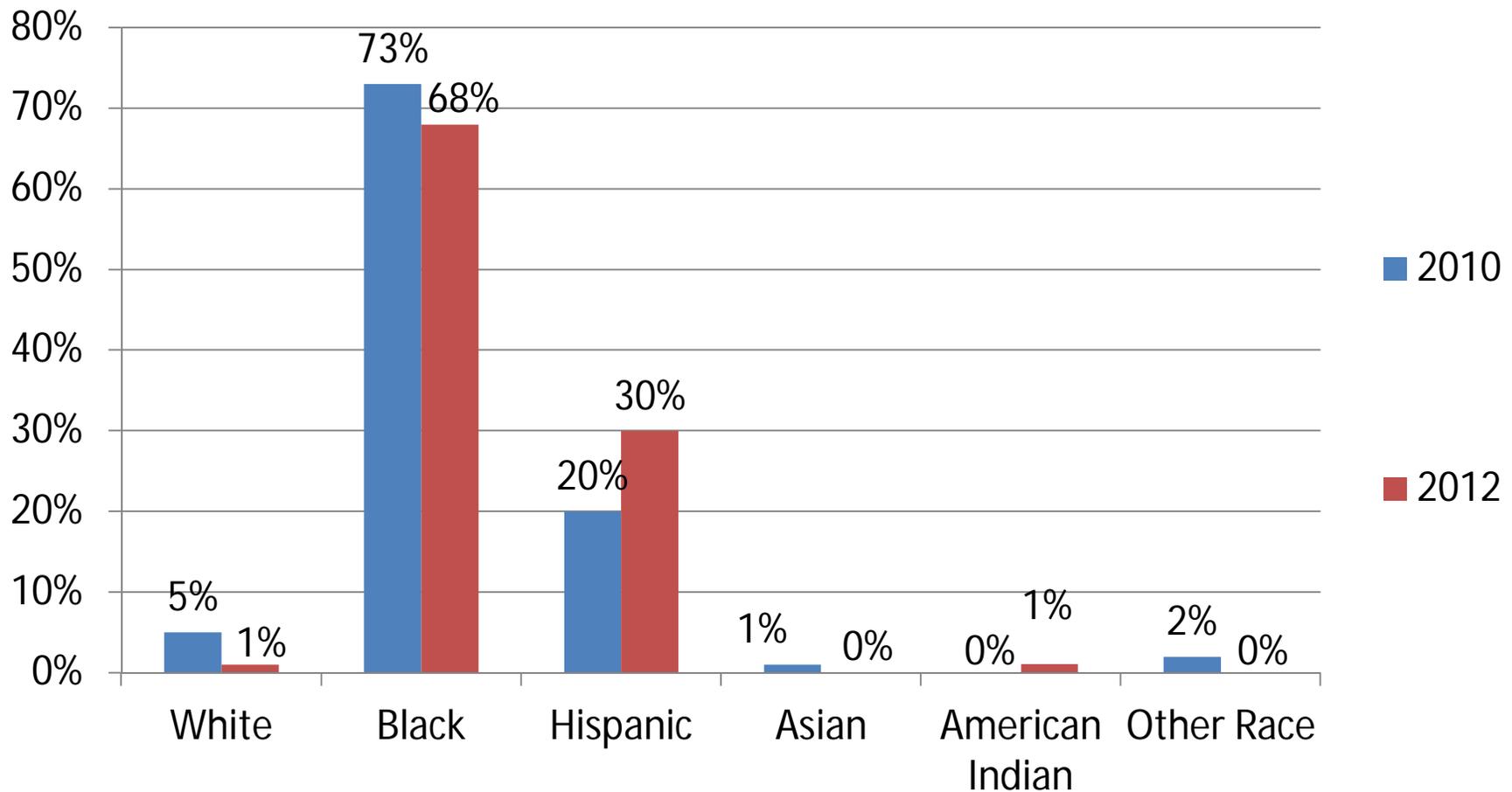


*\*Statistics show percentages of cases where tenure of subject officers is known.*

# Police Department Dispositions of Substantiated Subject Officers

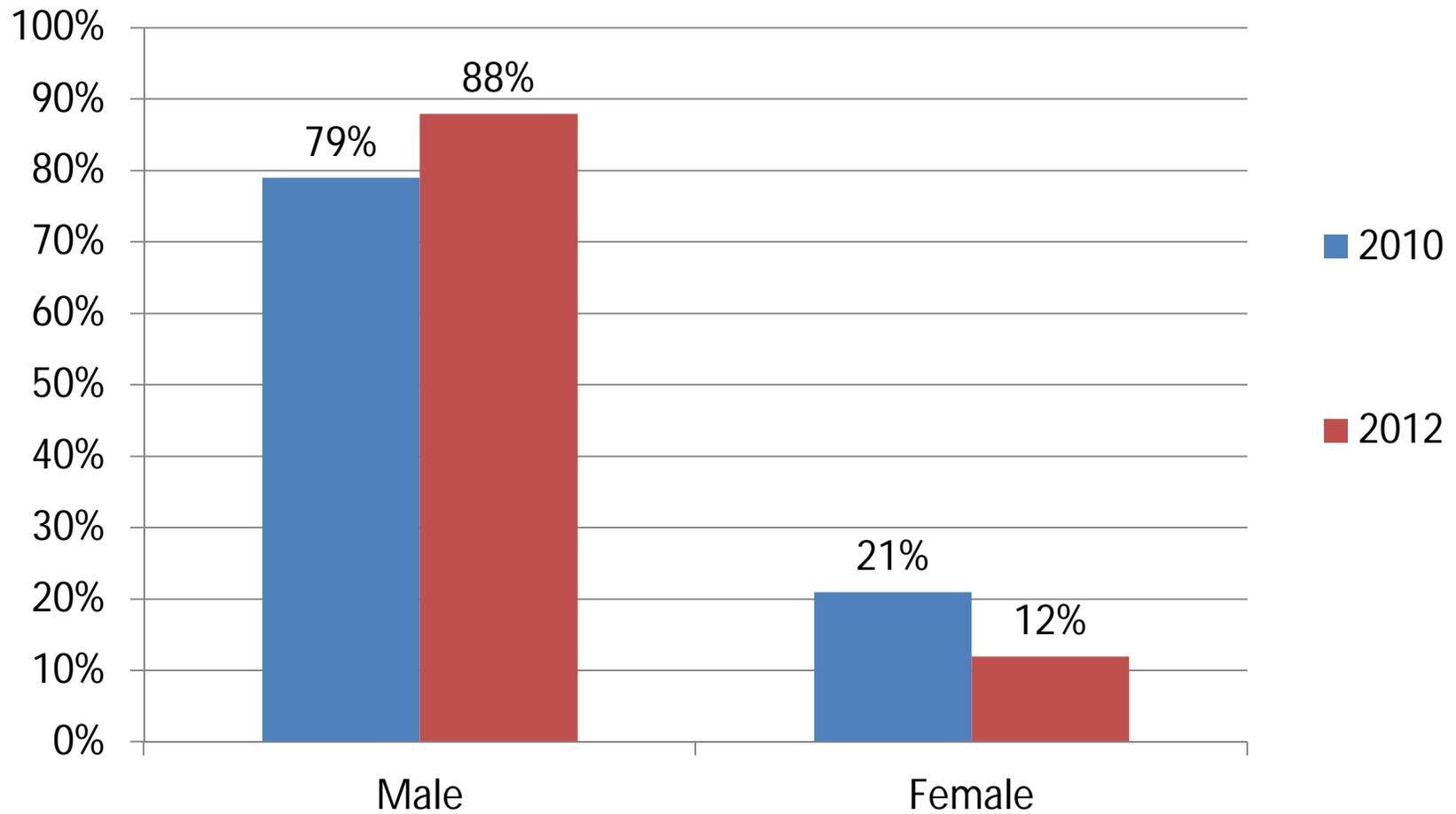


# Alleged Victims by Race and Ethnicity



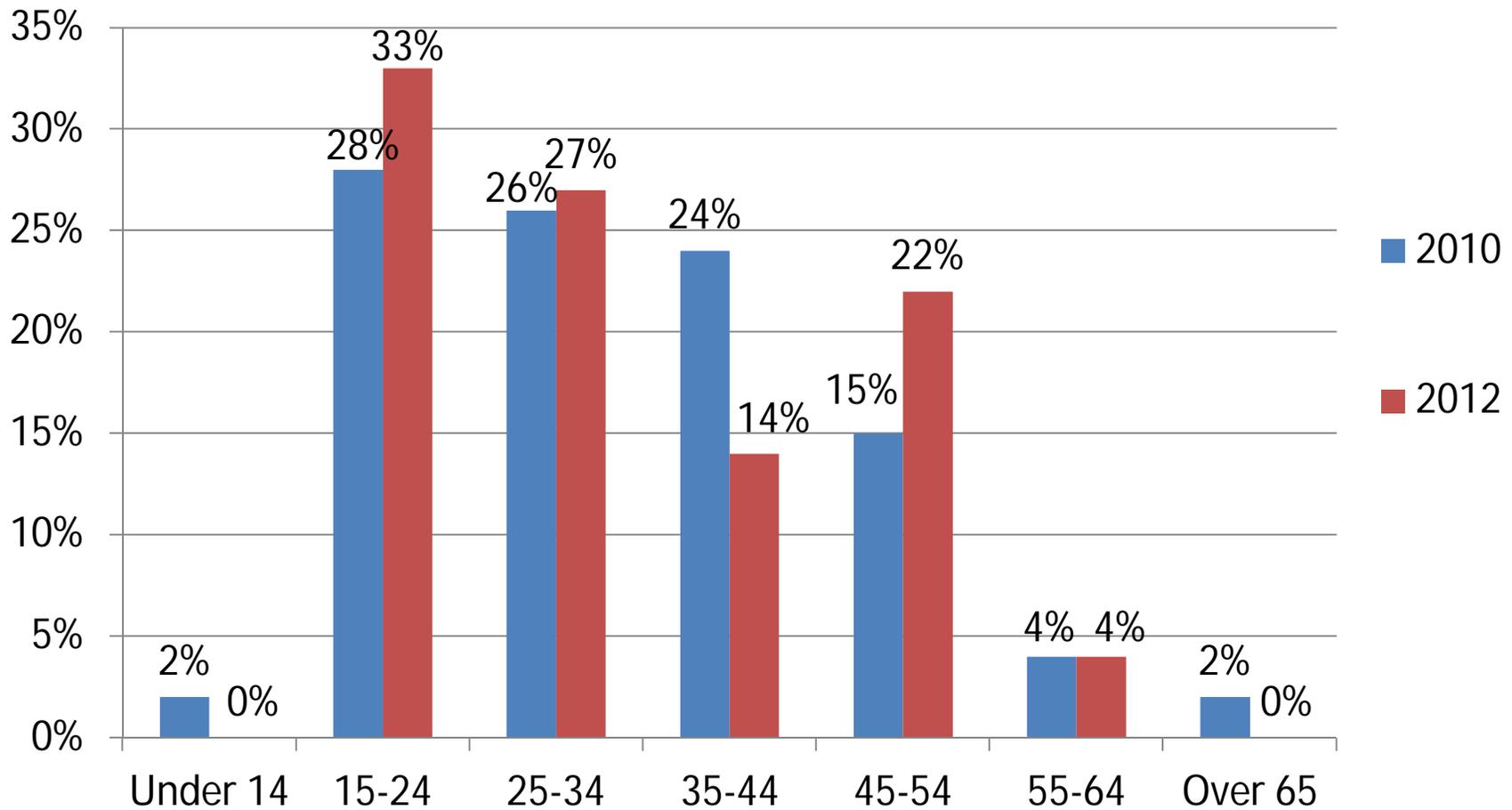
*\*Statistics show percentages of cases where race and ethnicity of victims is known.*

# Alleged Victims by Gender



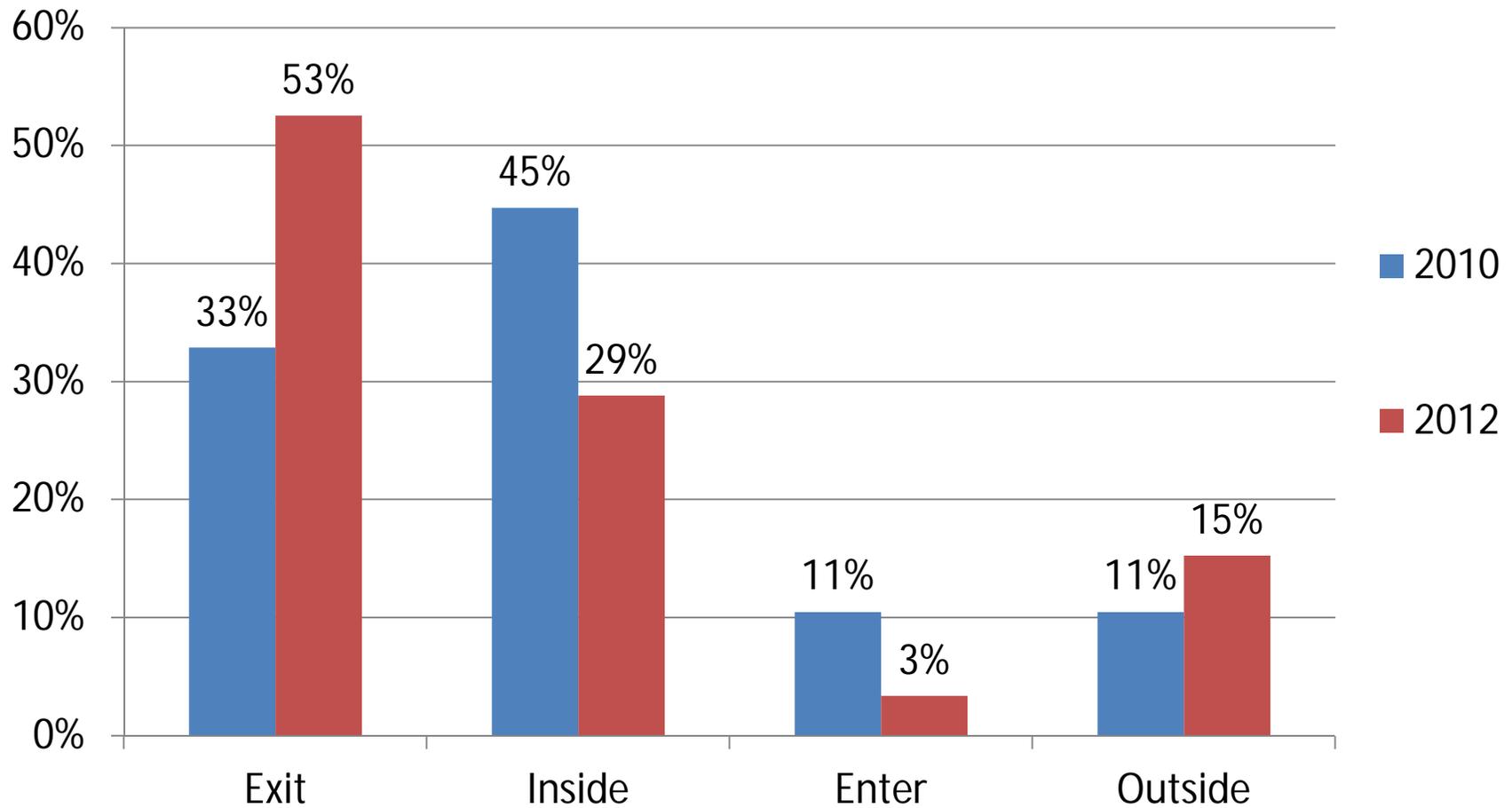
*\*Statistics show percentages of cases where gender of victims was known.*

# Alleged Victims by Age

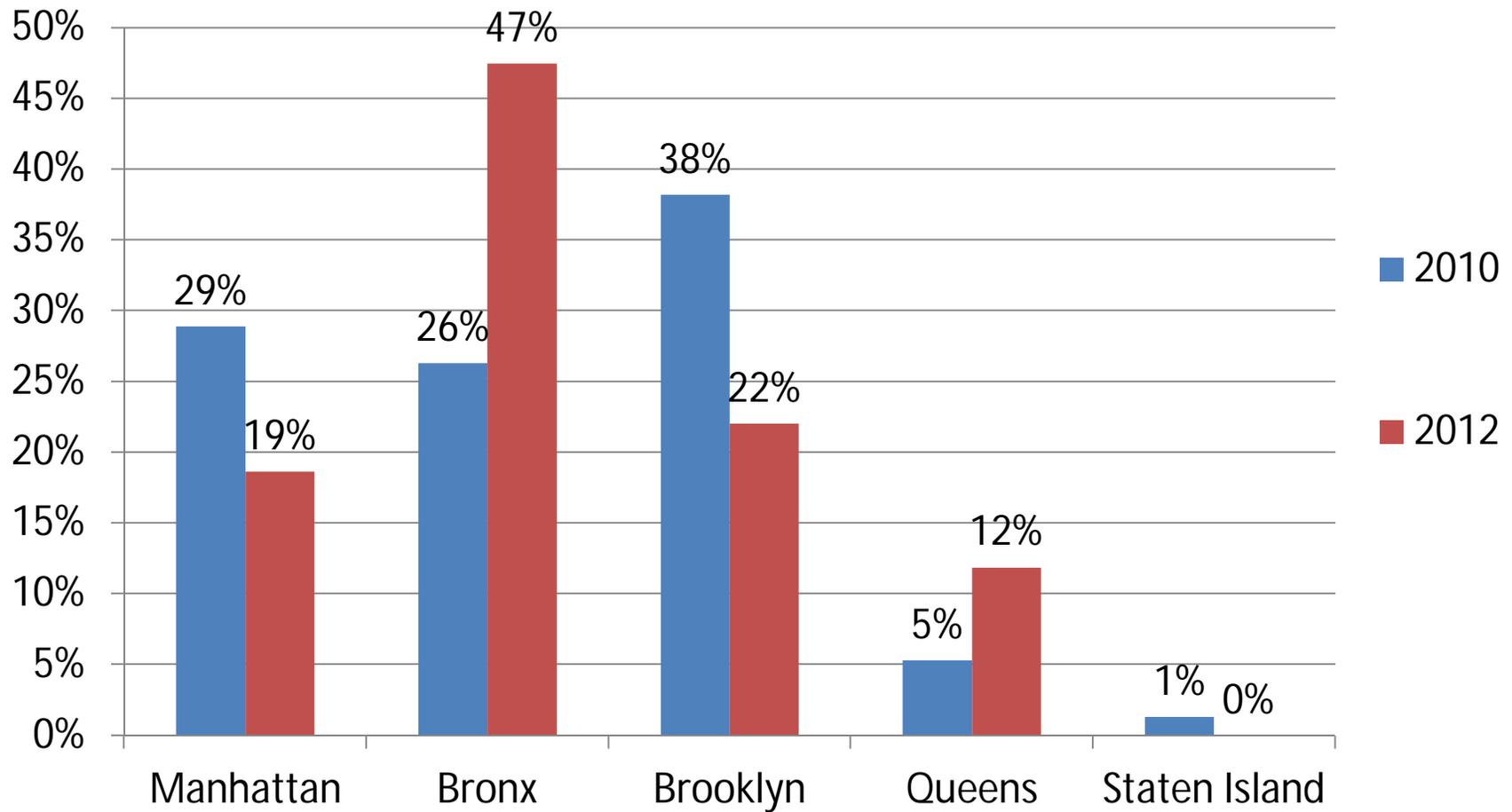


*\*Statistics show percentages of cases where age of victims is known.*

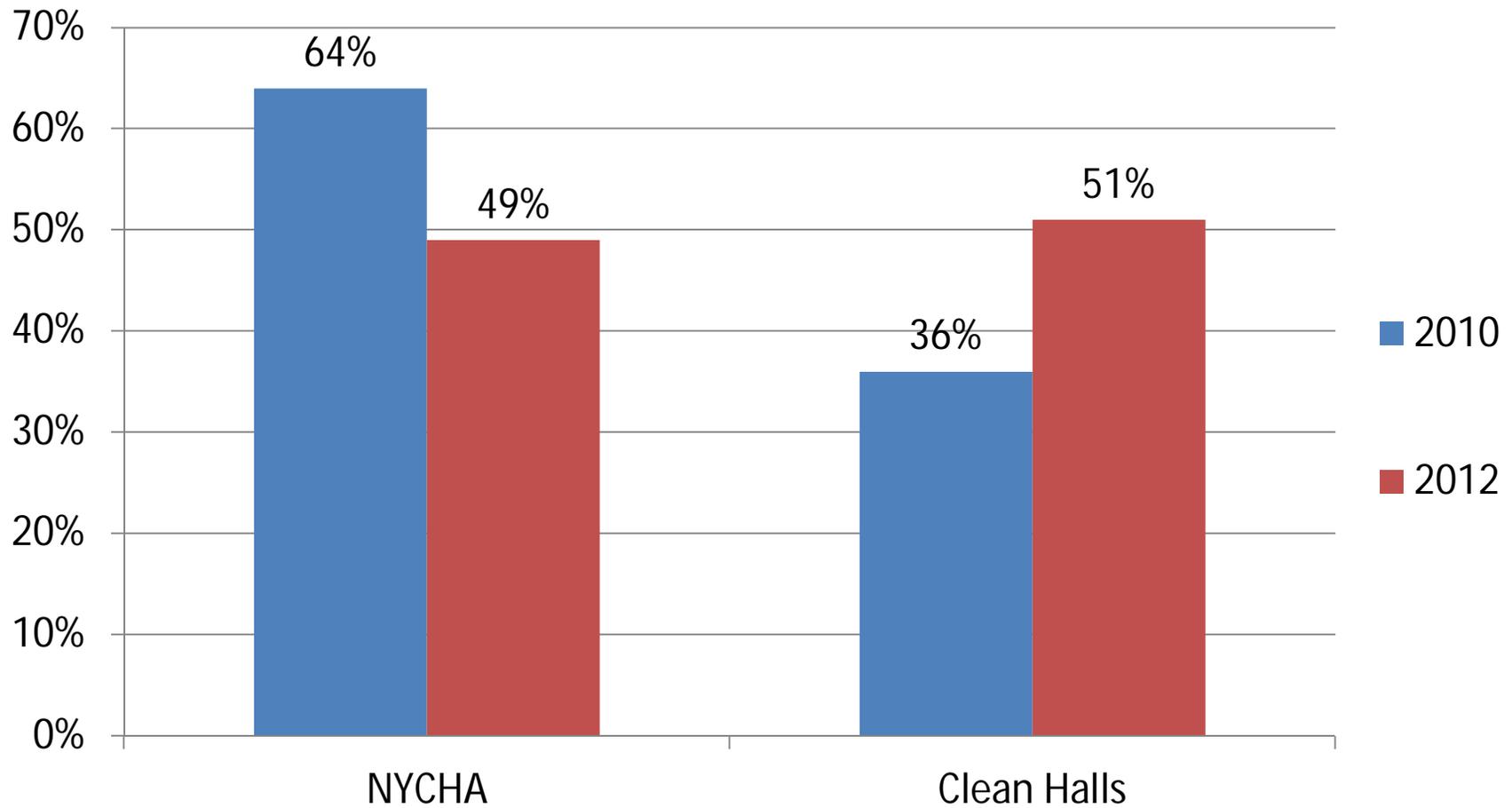
# Cases by Incident Location



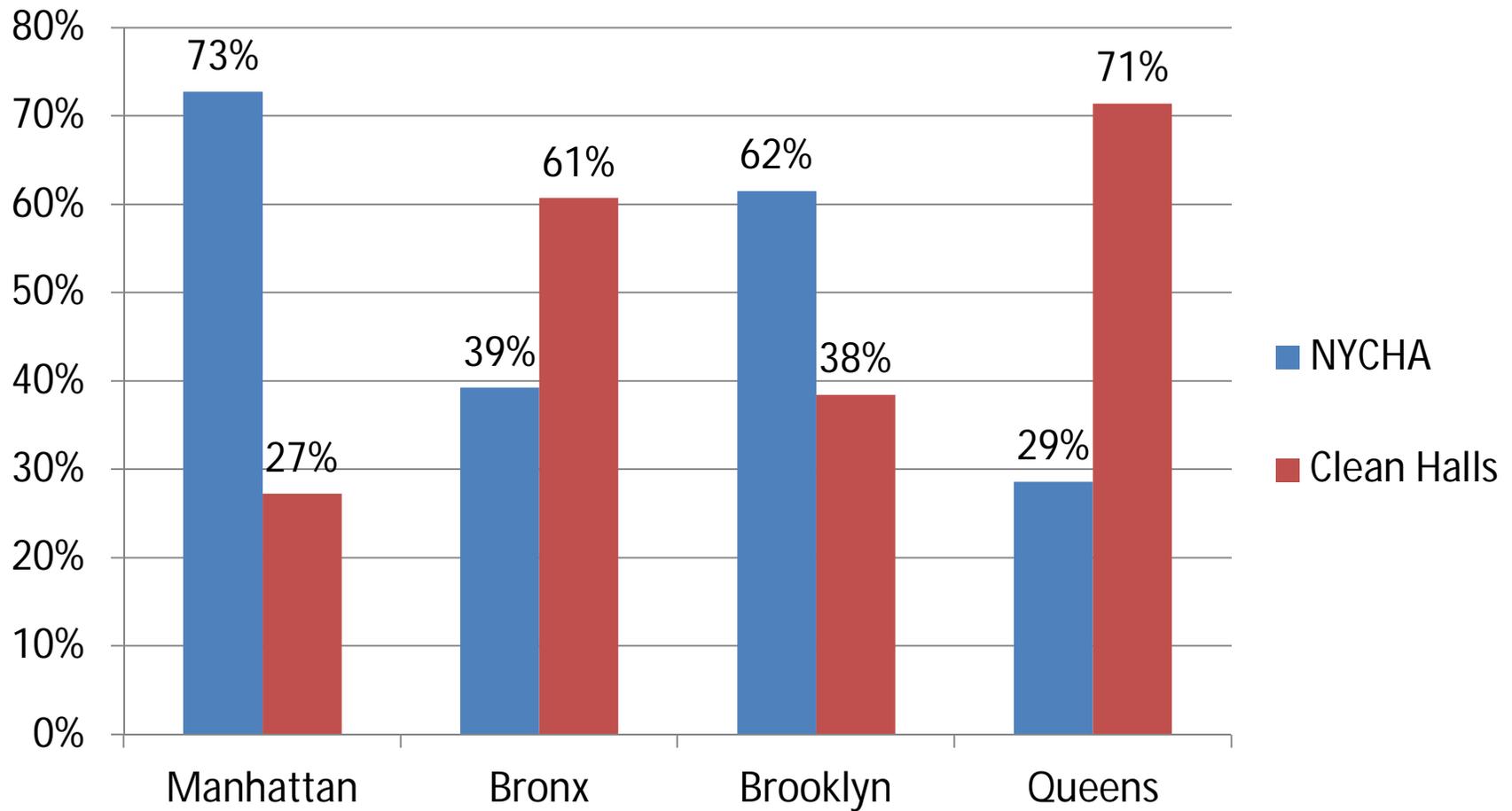
# Cases by Borough of Incident



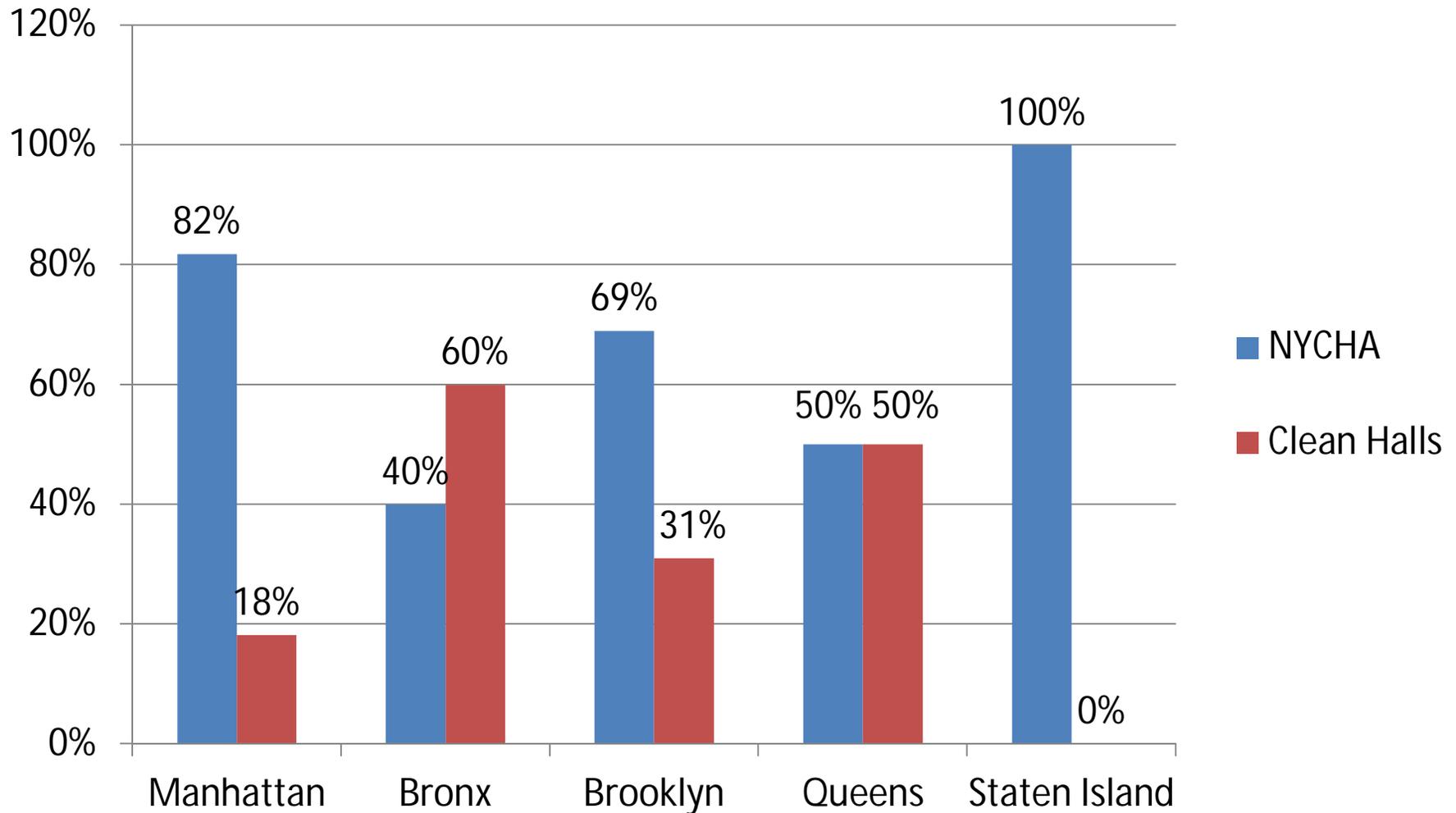
# Cases by Housing Type



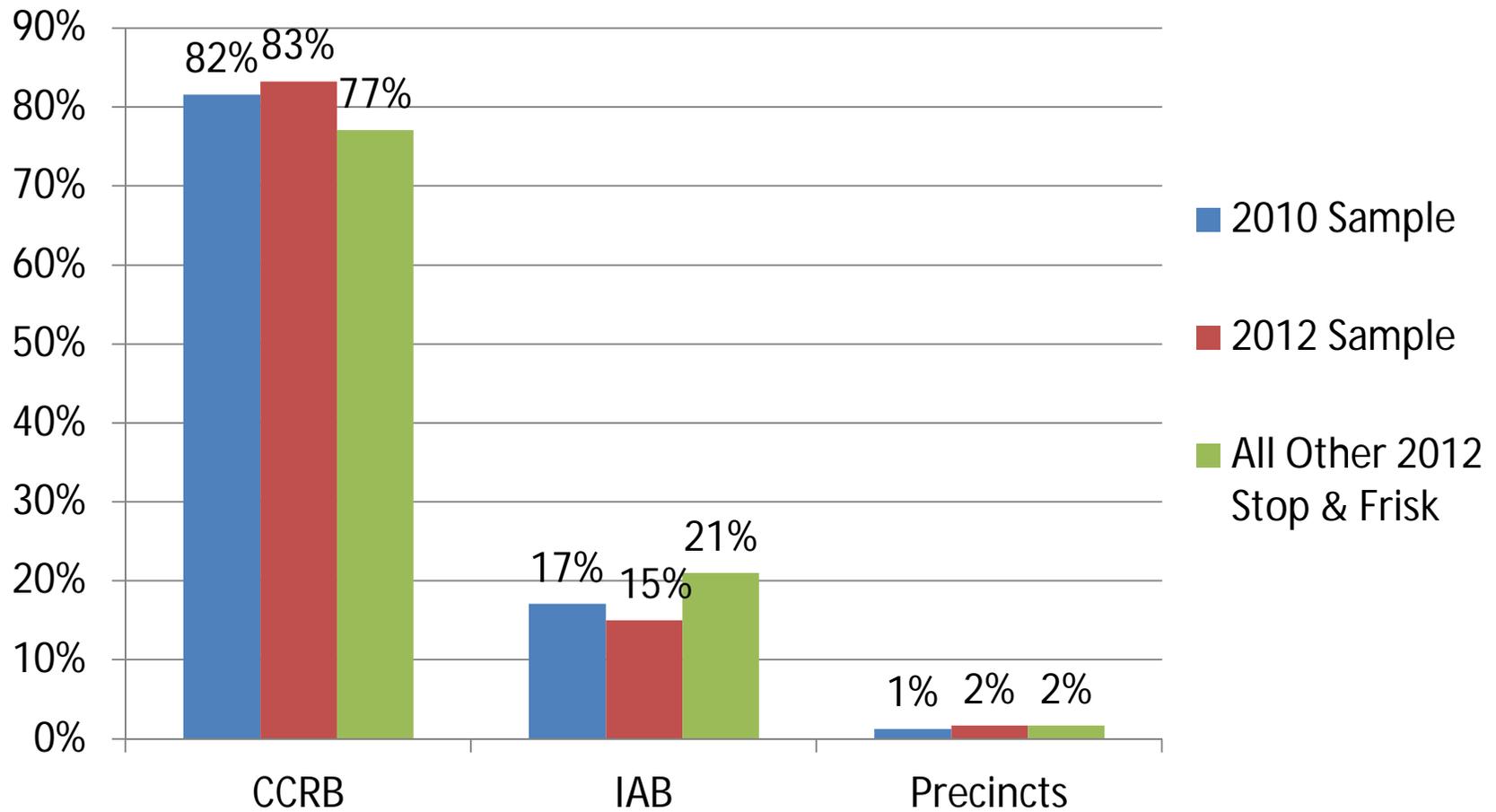
# Cases by Housing Type and Borough of Incident - 2012 Study



# Cases by Housing Type and Borough of Incident - 2010 Study



# By Place of Complaint Filing



*\*Statistics do not include place categories with percentages under 1%*

# Arrests and Summonses During Incidents

