

Motions in Implied Consent Cases After State v. Fowler and State v. Palmer

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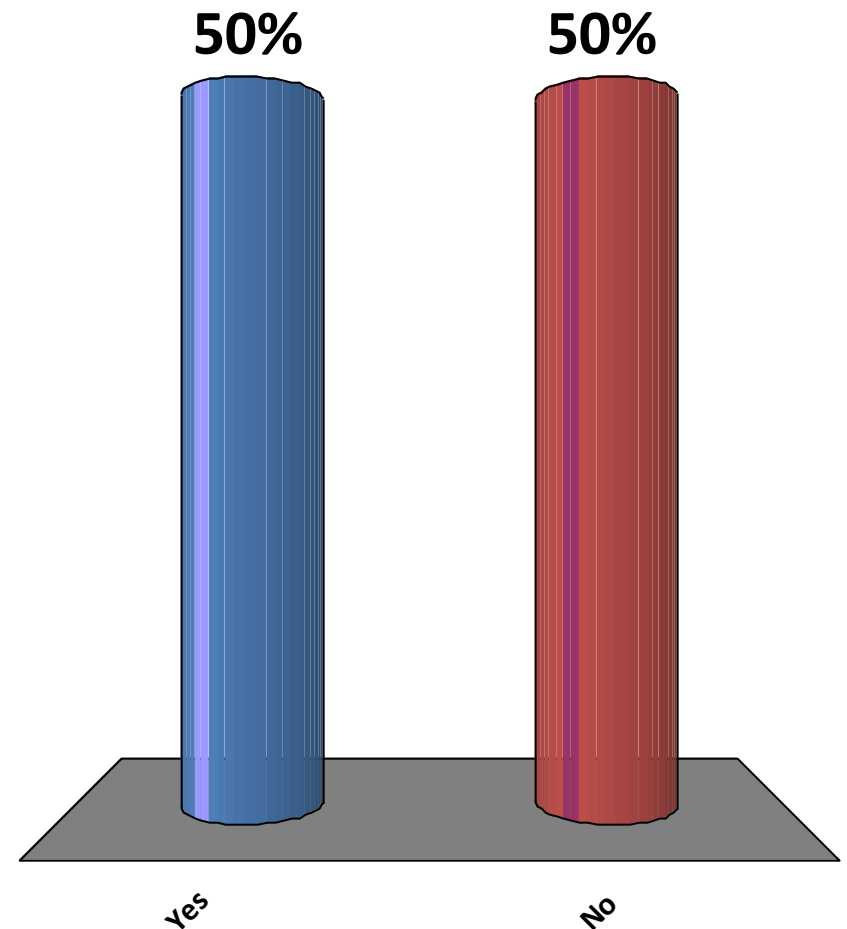
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June 10, 2009

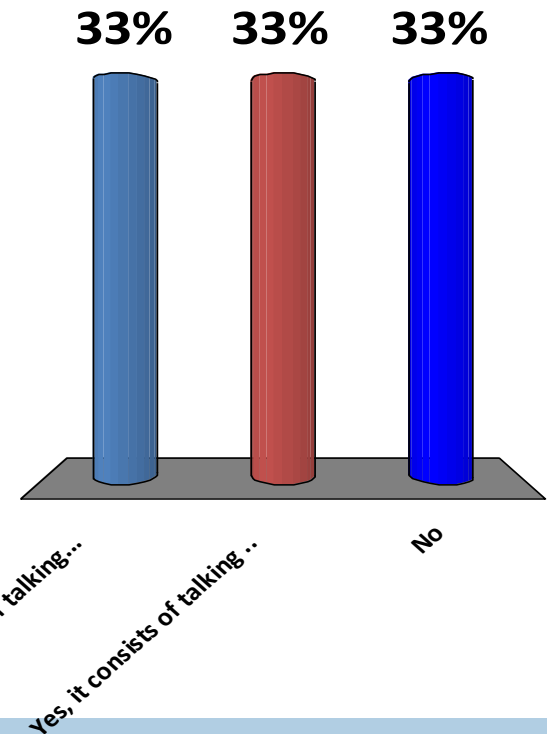
A. Does the DA in your district provide discovery in implied consent cases?

1. Yes
2. No



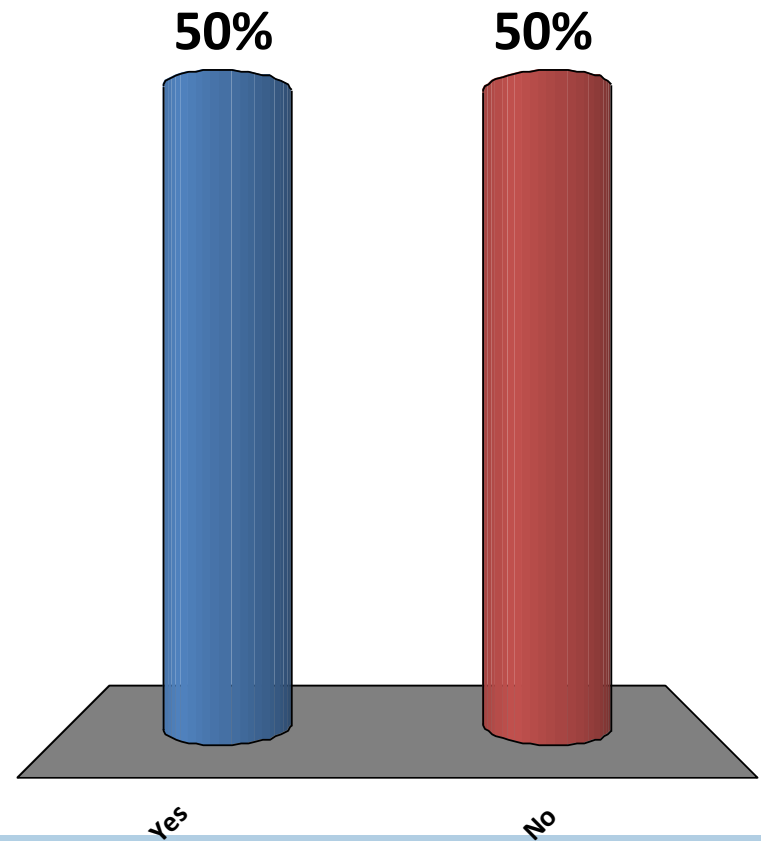
B. If not, is there some other procedure by which a defendant may gain access to evidence/witnesses before trial?

1. Yes, it consists of talking to the officer at the first court date
2. Yes, it consists of talking to the officer at the first court date and/or some other procedure(s)
3. No



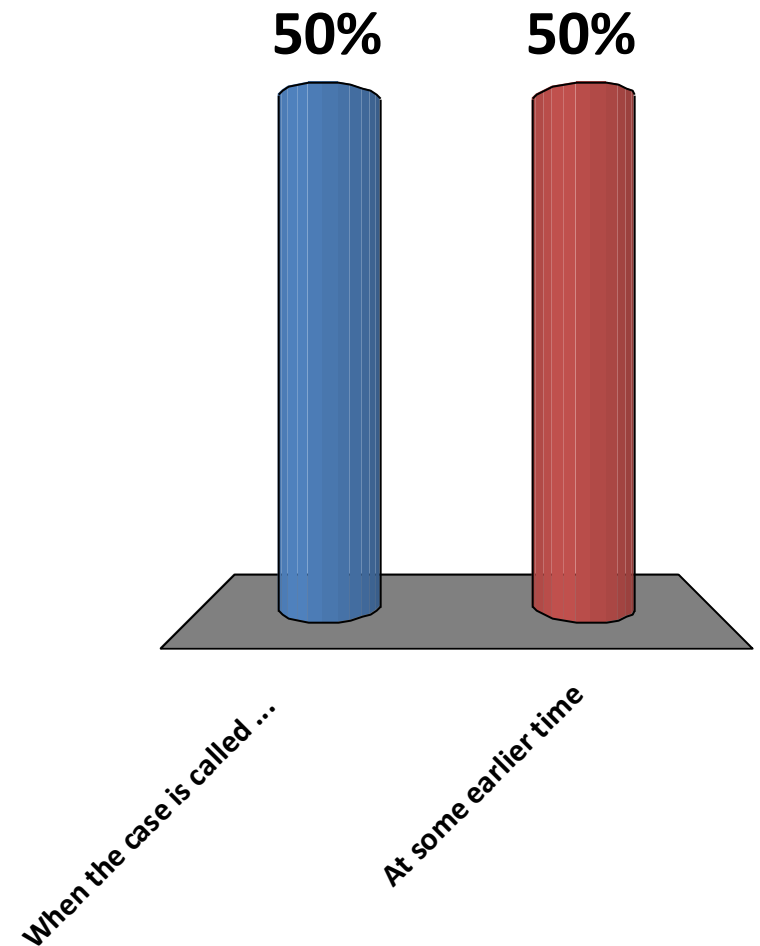
C. Do you have local rules governing the filing of pre-trial motions in implied consent cases?

1. Yes
2. No



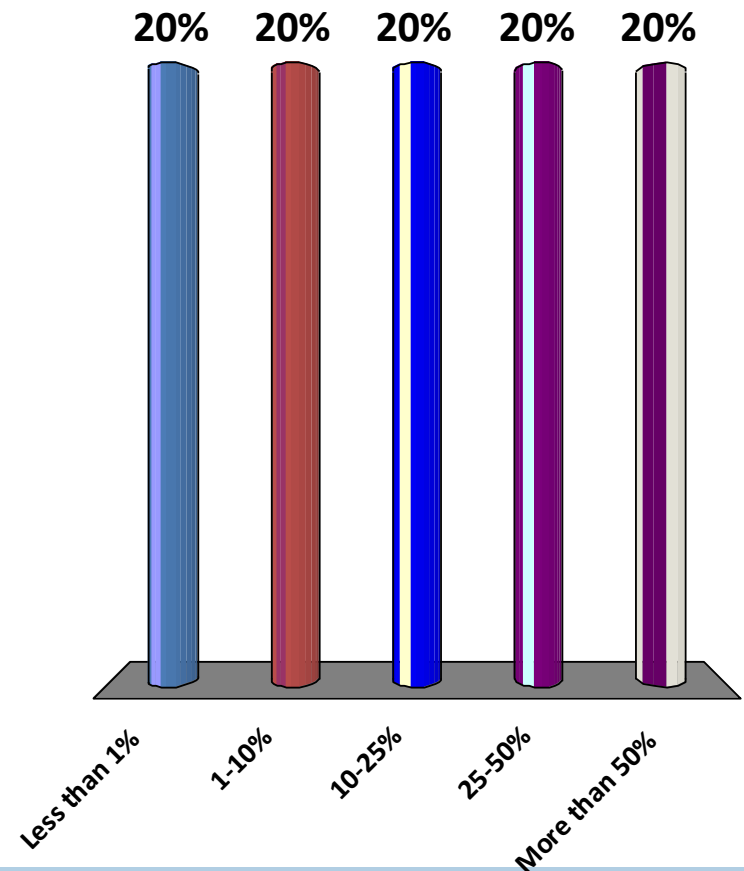
D. When do you require that pre-trial motions be raised?

1. When the case is called for trial
2. At some earlier time



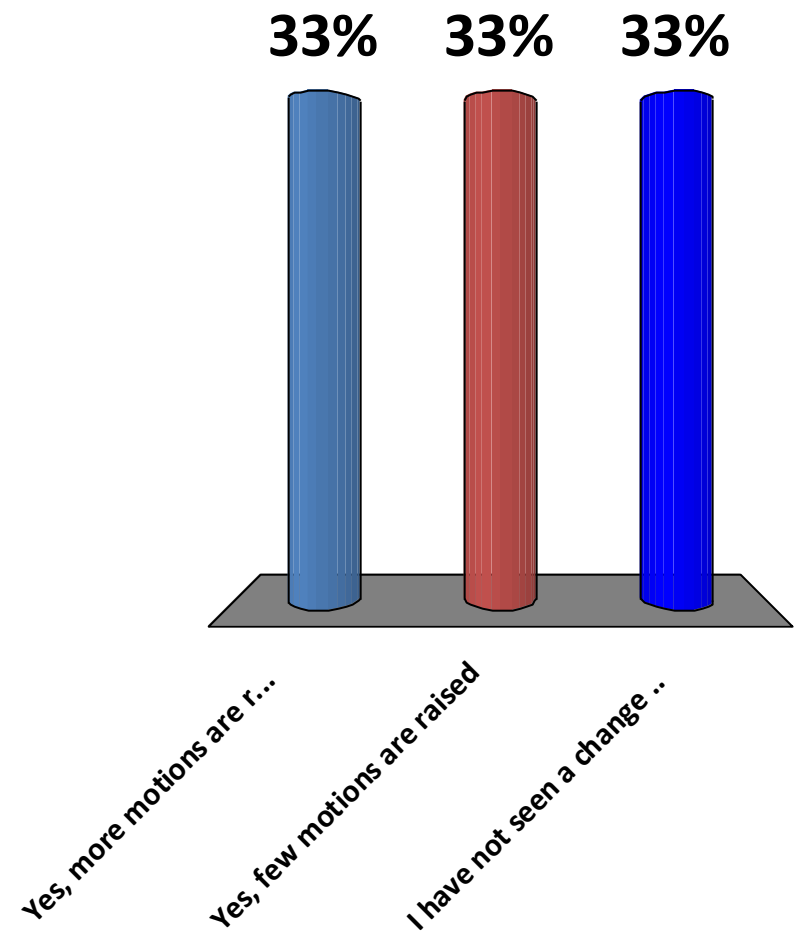
E. In what percentage of the implied consent cases you hear are pretrial motions raised?

1. Less than 1%
2. 1-10%
3. 10-25%
4. 25-50%
5. More than 50%



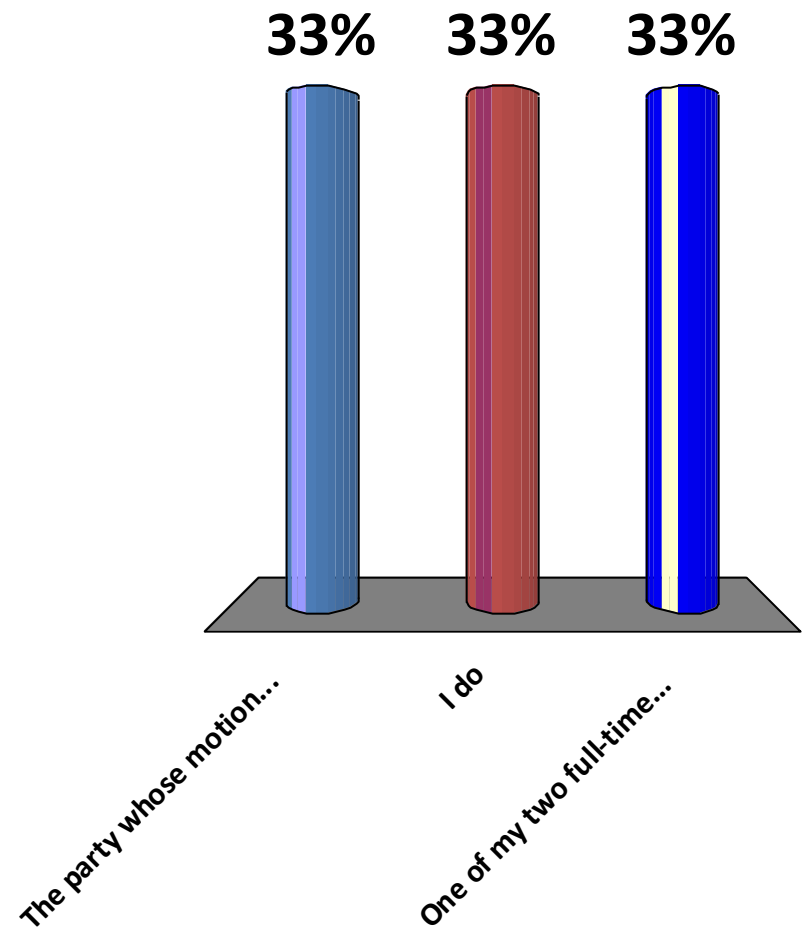
F. Has the motions practice changed for cases governed by the new procedures?

1. Yes, more motions are raised
2. Yes, few motions are raised
3. I have not seen a change in the number of motions



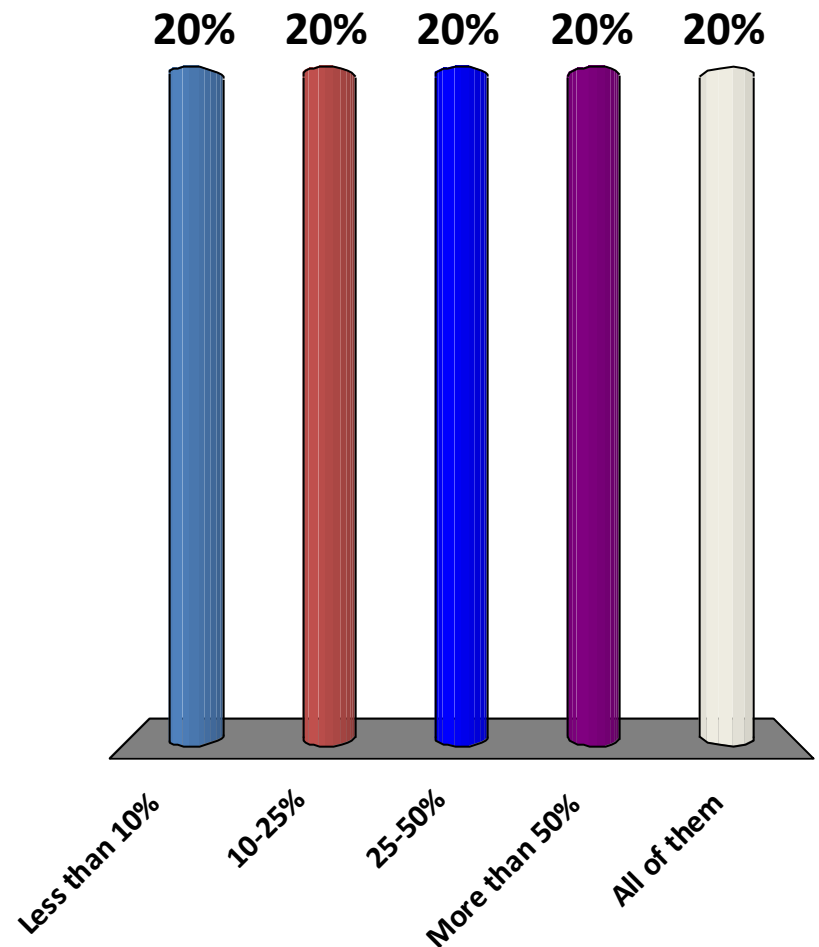
G. Who prepares your written preliminary determinations/final judgment?

1. The party whose motion is granted
2. I do
3. One of my two full-time law clerks



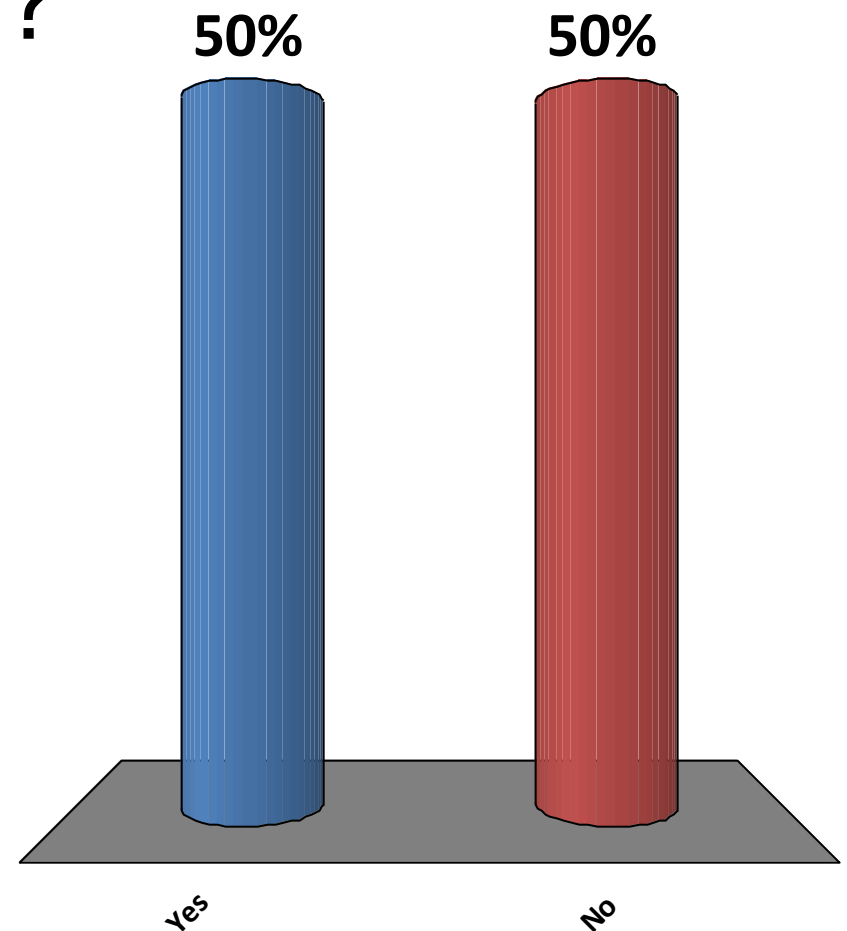
H. What percentage of you preliminary determinations does the state appeal?

1. Less than 10%
2. 10-25%
3. 25-50%
4. More than 50%
5. All of them



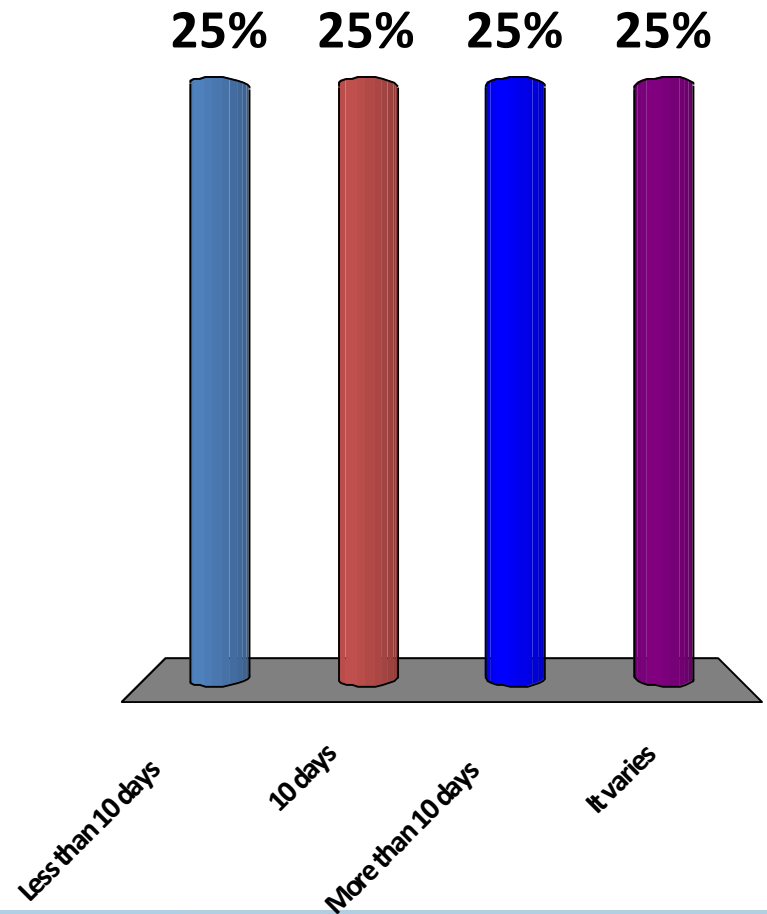
I. Do you specify in the preliminary determination how much time the state has to appeal?

1. Yes
2. No



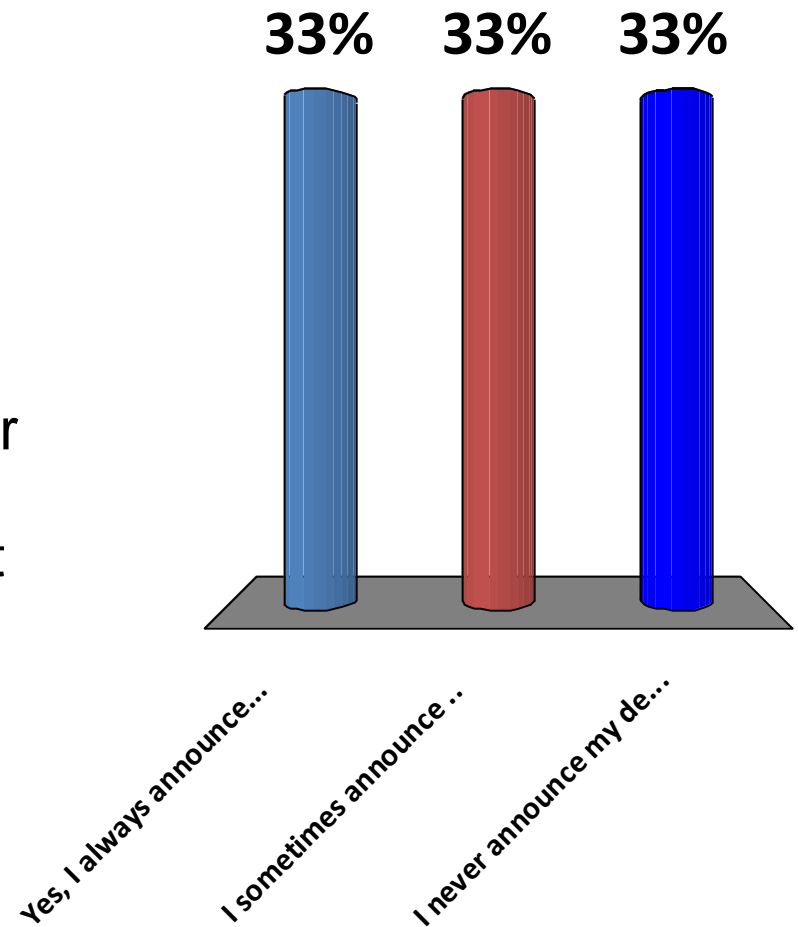
J. If you do specify a time for appeal, how much time do you typically afford the state?

1. Less than 10 days
2. 10 days
3. More than 10 days
4. It varies greatly depending on the case



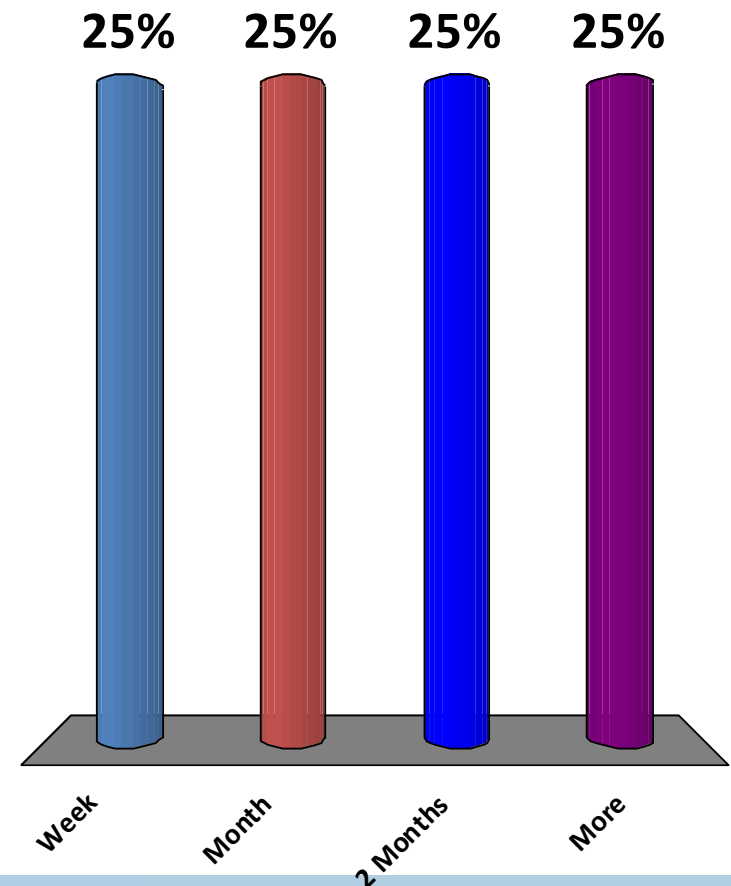
K. Do you announce your preliminary determination at the hearing?

1. Yes, I always announce my decision in open court at the hearing
2. I sometimes announce my decision at the hearing and sometimes take the matter under advisement
3. I never announce my decision at the hearing and always take the matter under advisement



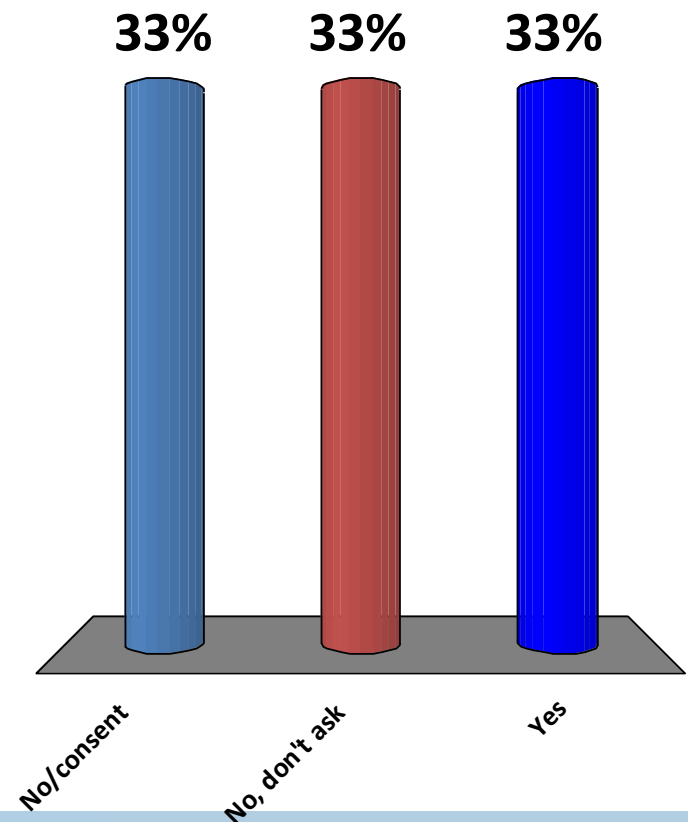
L. How soon after the hearing do you typically issue your written preliminary determination?

1. Within the week
2. Within the month
3. Within two months
4. Later than two months



M. If you deny the defendant's motion, do you rehear evidence in the trial that you heard in the motions hearing?

1. No, so long as the parties consent to the incorporation of such evidence in the trial
2. No, and I don't ask for consent
3. Yes, I rehear the evidence



N. Does the judge who entered the preliminary determination typically preside over the trial of the matter?

1. Yes
2. Yes, but only if the p.d. is not appealed by the state
3. Yes, but only if the p.d. is affirmed by the superior court
4. No, there is no effort in my district to ensure that the judge who considered the pretrial motions presides over the trial

