



THE OHIO STATE UNIVERSITY

MORITZ COLLEGE OF LAW

DRUG ENFORCEMENT AND POLICY CENTER



UNC

SCHOOL OF LAW

Prosecutors and Politics Project

Marijuana Possession Enforcement in the 2022 Prosecutor Election: Preliminary Findings

Amy Ullrick

Research Specialist, Prosecutors and Politics Project
University of North Carolina School of Law

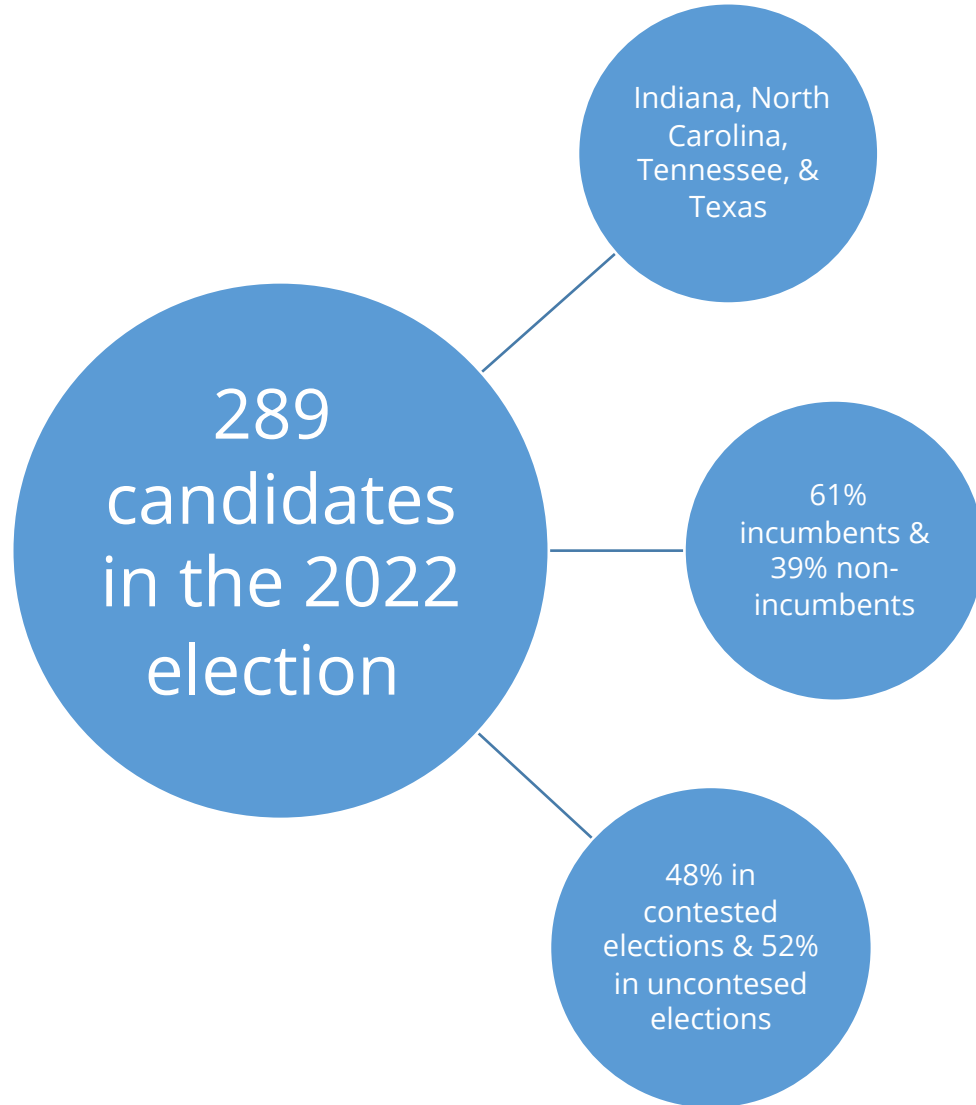
Research question: What are the policies and platforms of candidates for local prosecutor with respect to marijuana prosecution?

Methodology:

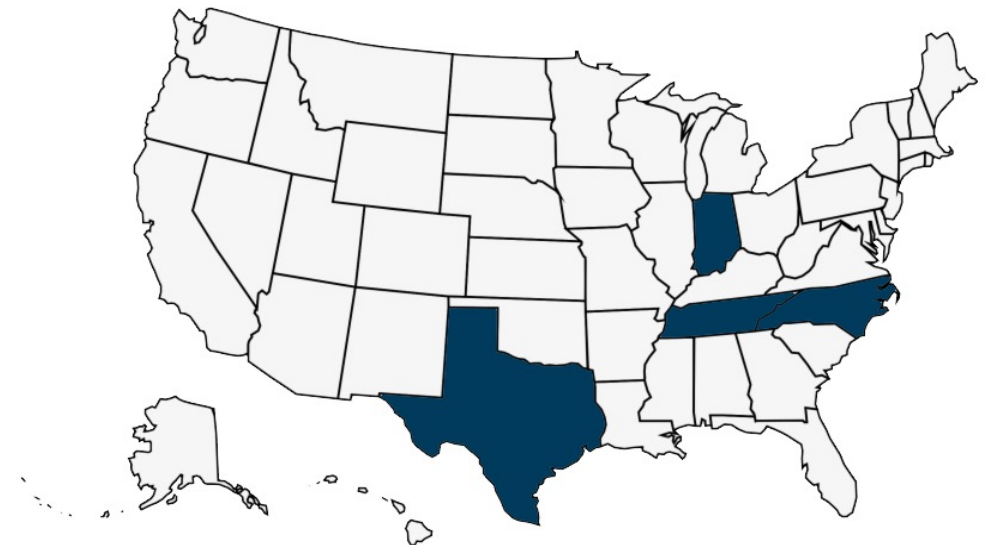
Phase 1: identify districts and candidates

Phase 2: search print media and Facebook for policies

Phase 3: survey candidates

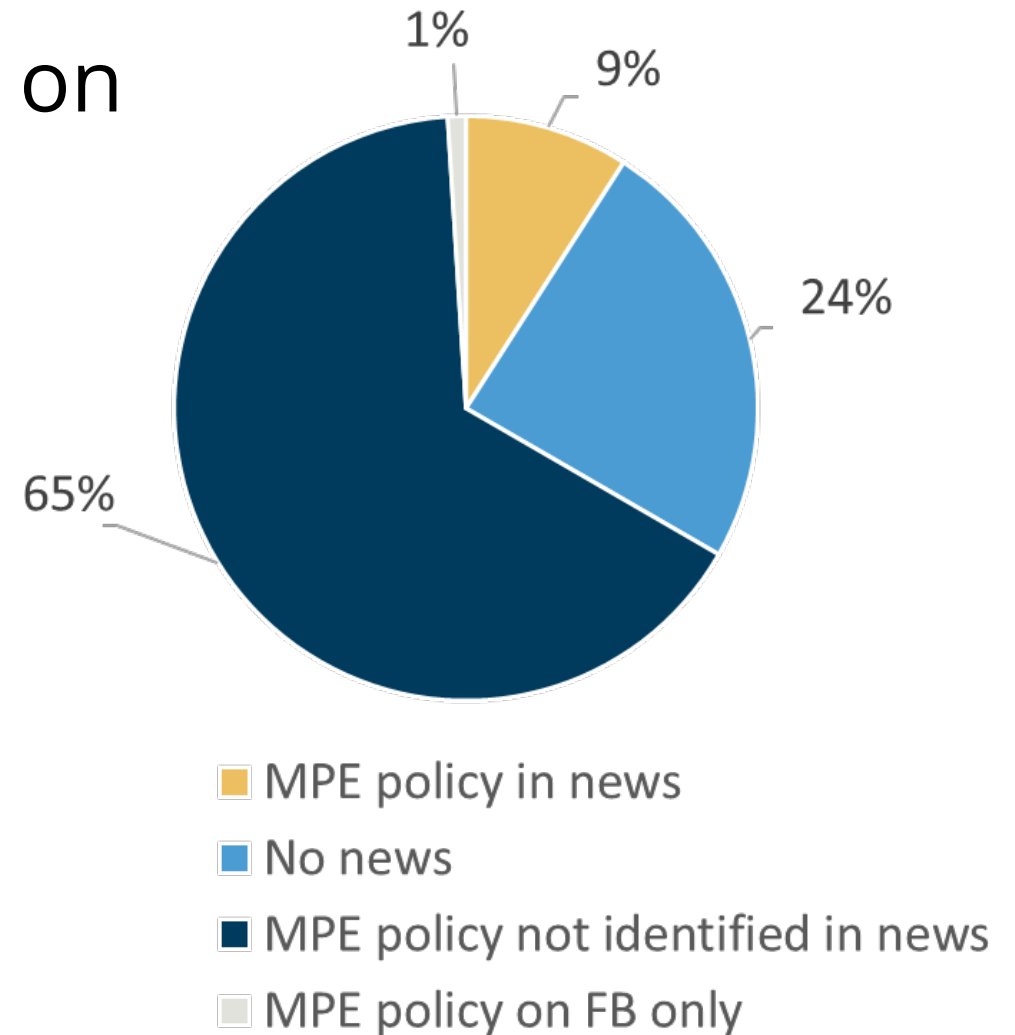


Subject Demographics

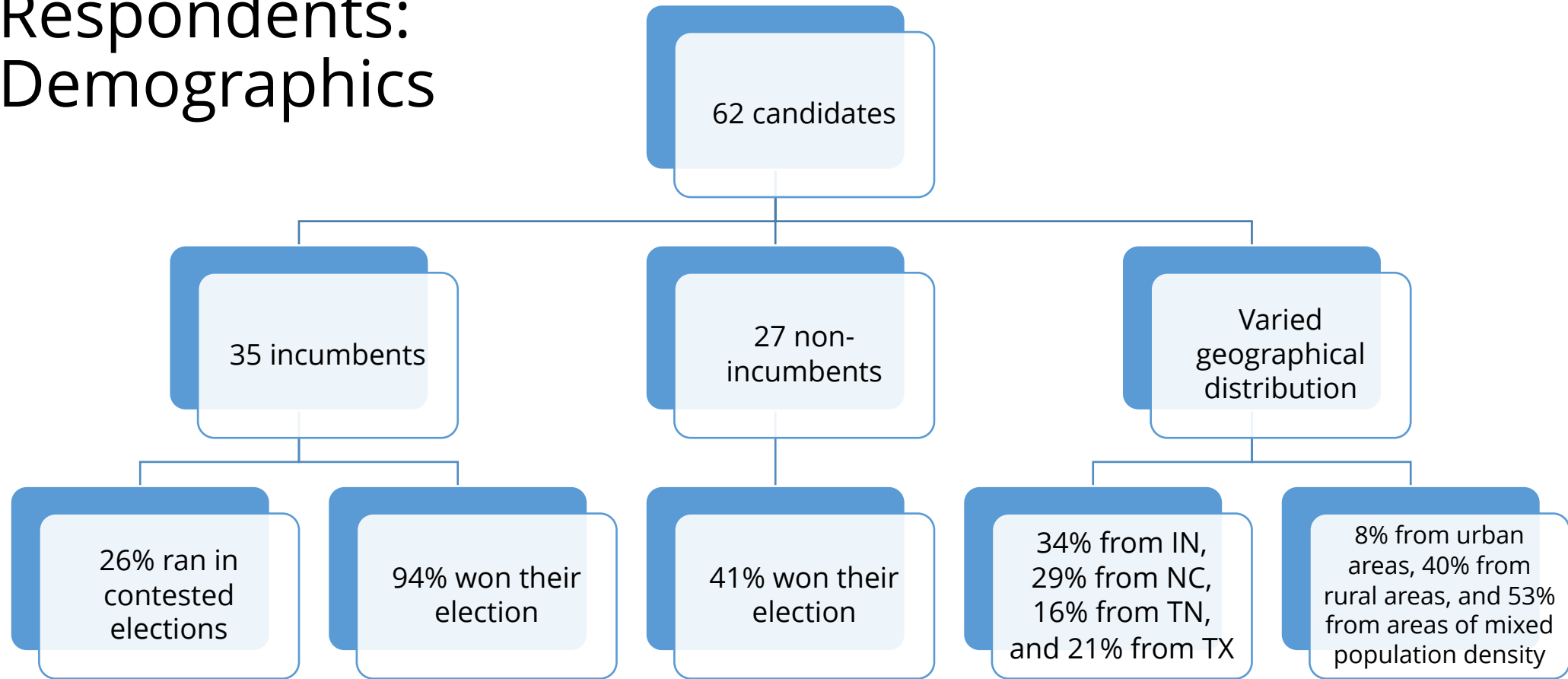


Can voters learn about policies on the news or Facebook?

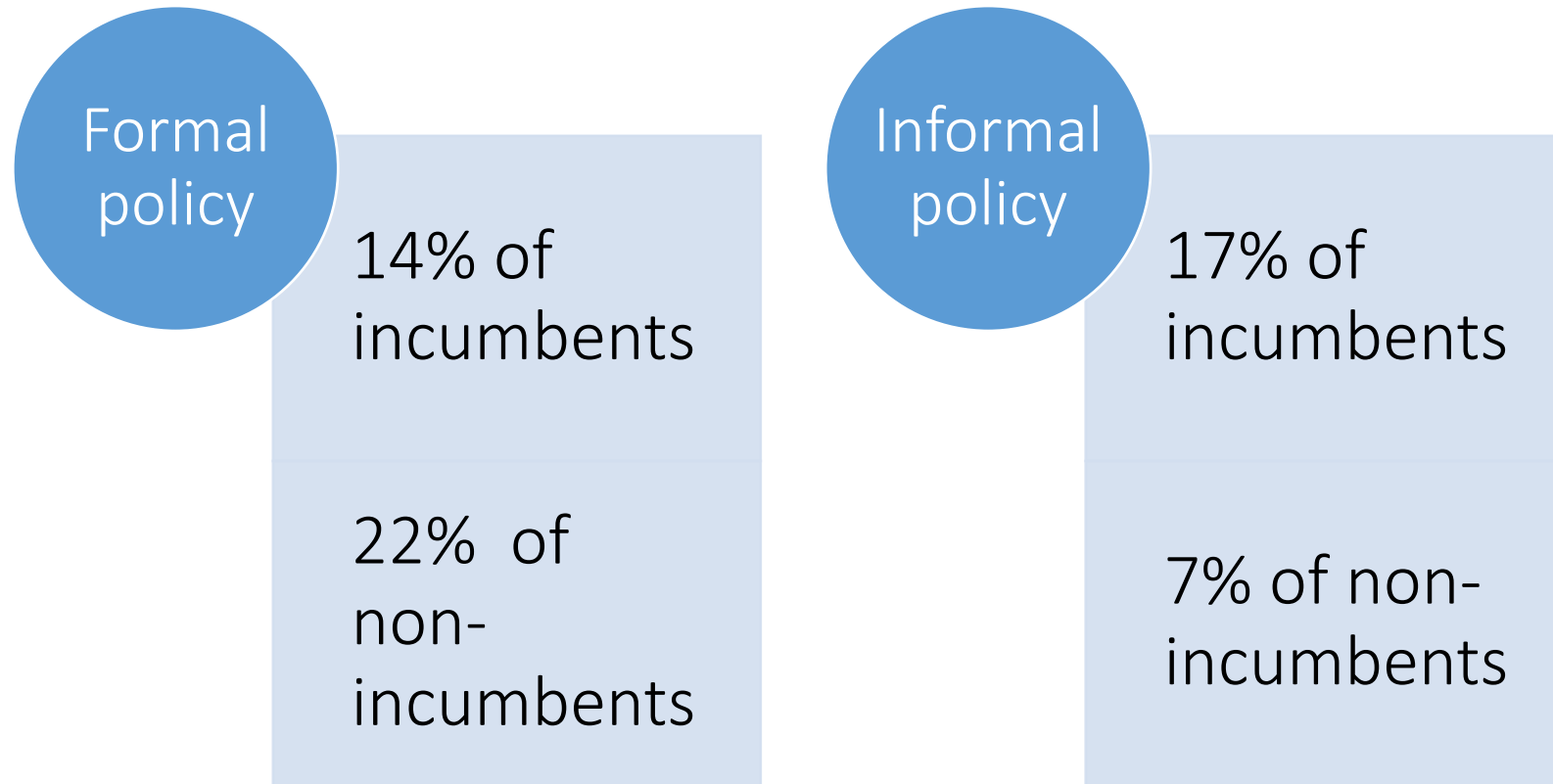
- Policy information was overwhelmingly not available
- 90% of all candidates had no MPE policies on searched sources



Phase 3 Survey Respondents: Demographics



Do you have a policy on charging adult personal possession of marijuana?*



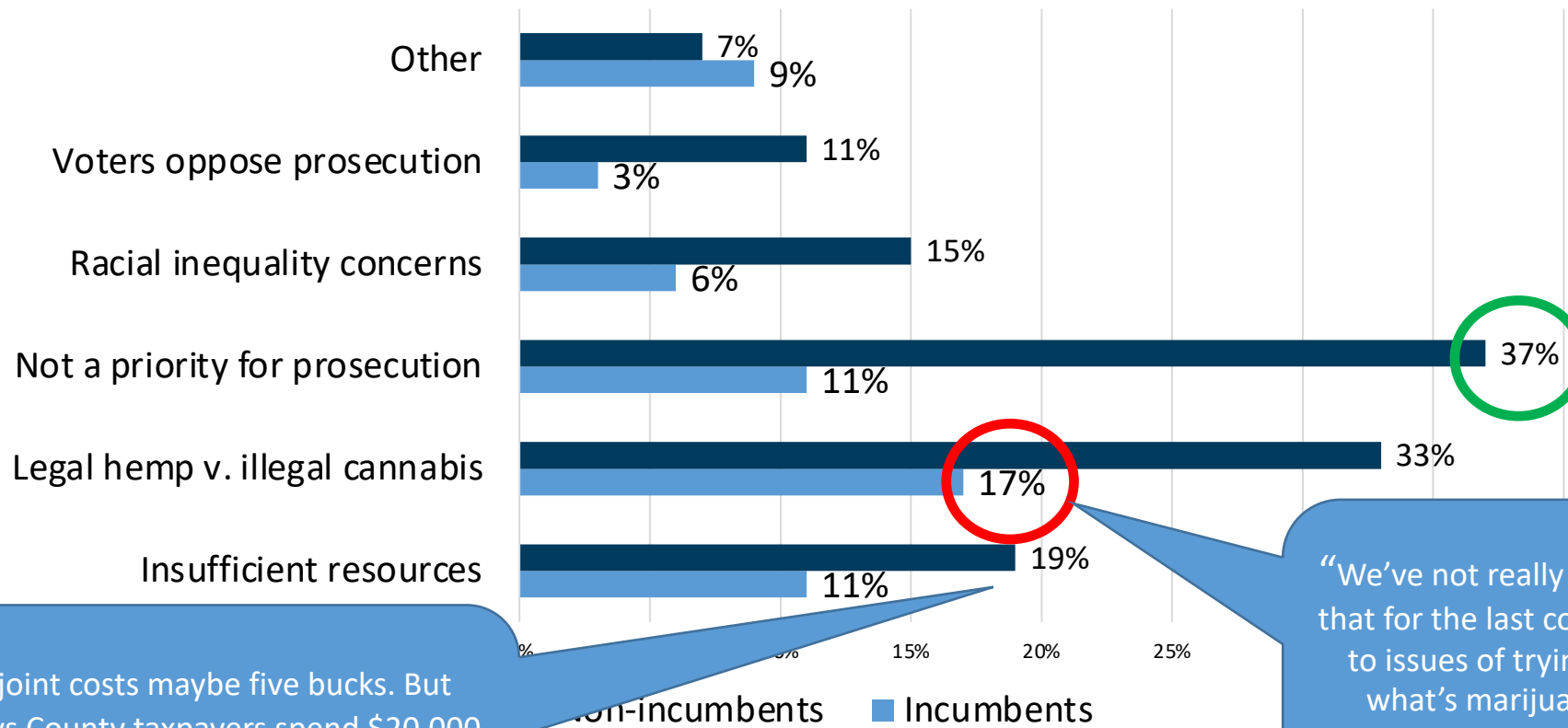
**Non-response rate was high for this question*

What is your prosecution policy for personal possession of marijuana cases?*

Prosecution policy	Prosecution policy	Incumbents	Non-incumbents
No prosecution			
Diversion, rather than criminal charge	Less than full enforcement	38%	62%
Diversion, rather than criminal charge for first time offenders			
Assign lower priority but still prosecute in some circumstances	Ordinary enforcement	56%	44%
Full enforcement			
Treat like all other cases on a case-by-case basis	22%	14%	17%
Other	25%	16%	20%

*Percentages are based on survey responses (47) and where available, policies found on media sources (22)

What is the motivation behind policies of limited or no prosecution of marijuana possession cases?*



"A joint costs maybe five bucks. But Hays County taxpayers spend \$20,000 every time we prosecute someone for that five dollar joint." – Kelly Higgins, Non-incumbent, Hays Co., TX

"We've not really been prosecuting that for the last couple of years due to issues of trying to determine what's marijuana and what's hemp..." – Neal Pinkston, Incumbent, Hamilton Co., TN

more than one response

What is the motivation behind traditional policies of prosecution of marijuana possession cases?

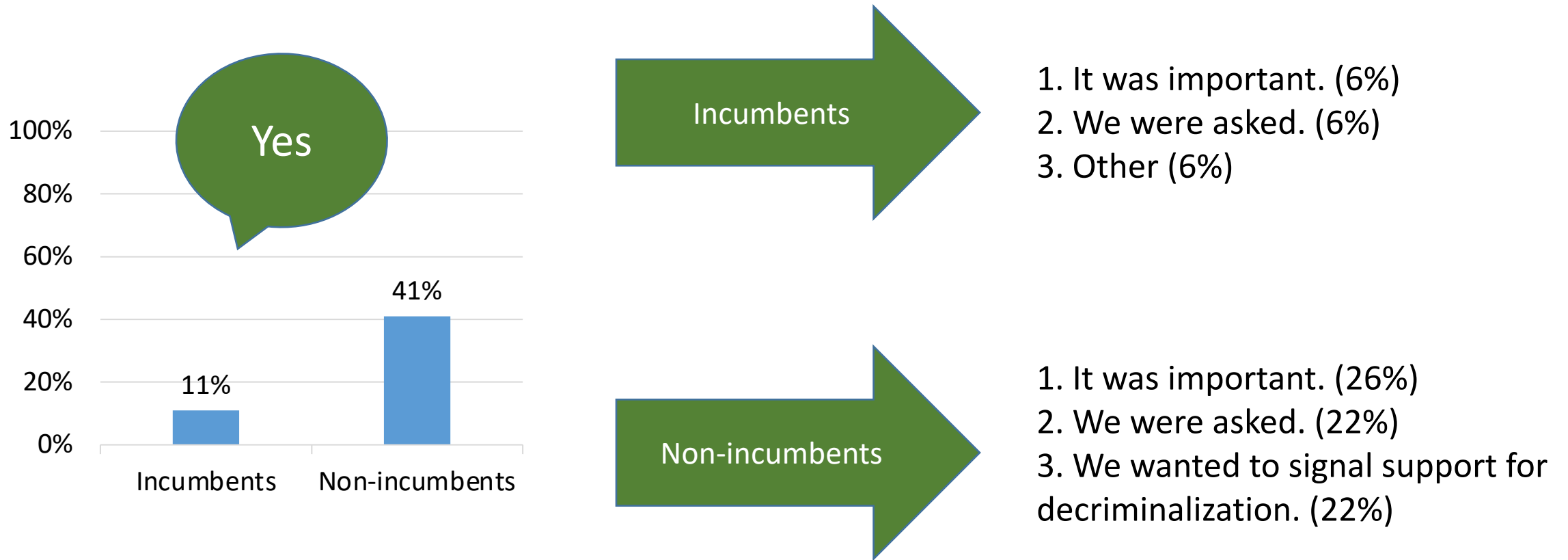
Current prosecutor Nick Hermann (Vanderburgh, IN) says ...discretion occurs on a case by case basis from a potential arrest, all the way to the prosecutor's office.

"I don't think that it's appropriate for me as the DA to say I'm not going to prosecute a crime that has been set by law."
– Survey respondent

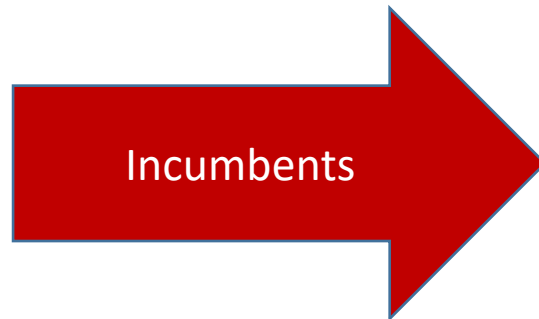
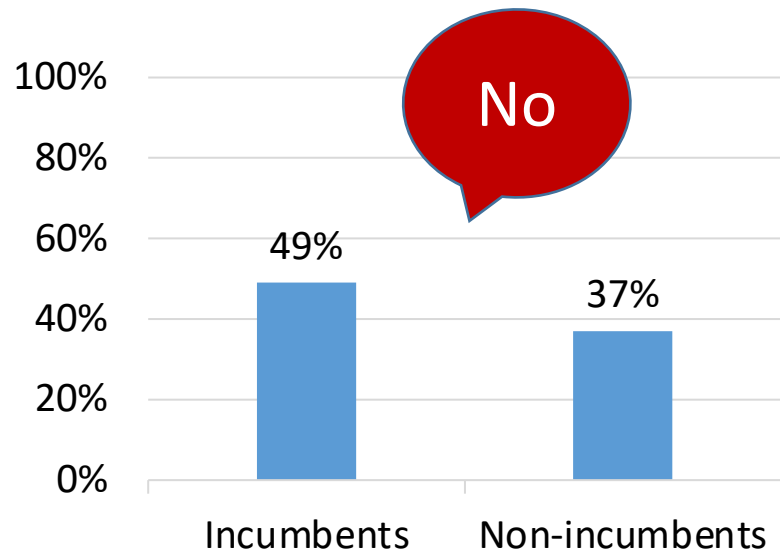
"So as long as it's on the books and I'm the DA, it's gonna be enforced." – Phil Sorrells, Incumbent, Tarrant Co., TX

"Formal criminal charges [are filed] on all offenders, but most are offered the opportunity for a diversion."
– Survey respondent

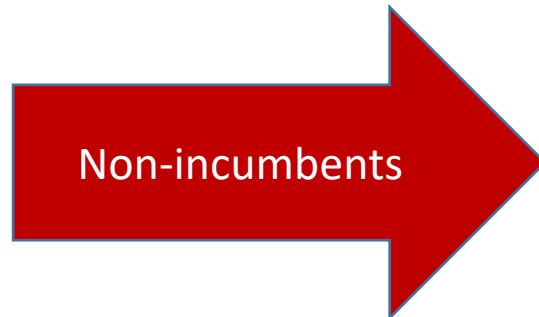
Did your office/campaign publicly announce your policy?



Did your office/campaign publicly announce your policy (cont.)?



- 1. Other (20%)
- 2. We do not announce any policy (11%)
- 3. No one asked (9%)



- 1. It was not important enough (22%)
- 2. No one asked (11%)
- 3. We do not announce any policy (7%)

“...The facts and circumstances of each case are different...this approach precludes broad pronouncements.”

“We didn't publicly announce because there is too much room for misunderstanding.”

“If local media called and asked, I would tell them about our policy.”

Opinion

ic safety

Prosecution policy	Incumbents	Non-incumbents
Less than full enforcement	38%	62%
Ordinary enforcement	56%	44%

Agreement with	Incumbents	Non-incumbents
MPE can make communities safer because marijuana users often commit other crimes	59%	32%
MPE can make communities safer because it disrupts drug trafficking, which can lead to violence and other public safety harms	63%	50%
MPE can make communities safer by allowing law enforcement to apprehend suspects involved in other crimes or while other crimes are being committed	85%	46%
MPE generally has little or no effect on public safety	22%	59%
MPE can harm public safety by diverting law enforcement and other resources away from efforts to combat serious crimes	30%	73%
MPE can harm public safety by damaging community trust in law enforcement and prosecutors	22%	59%
MPE can harm public safety by saddling more people with a criminal record that may impact their ability to remain law abiding	31%	73%

In your opinion, does the majority of voters in your district support or oppose the decriminalization of marijuana for personal use by adults?

They support it.

Incumbents: 6%
Non-incumbents: 48%

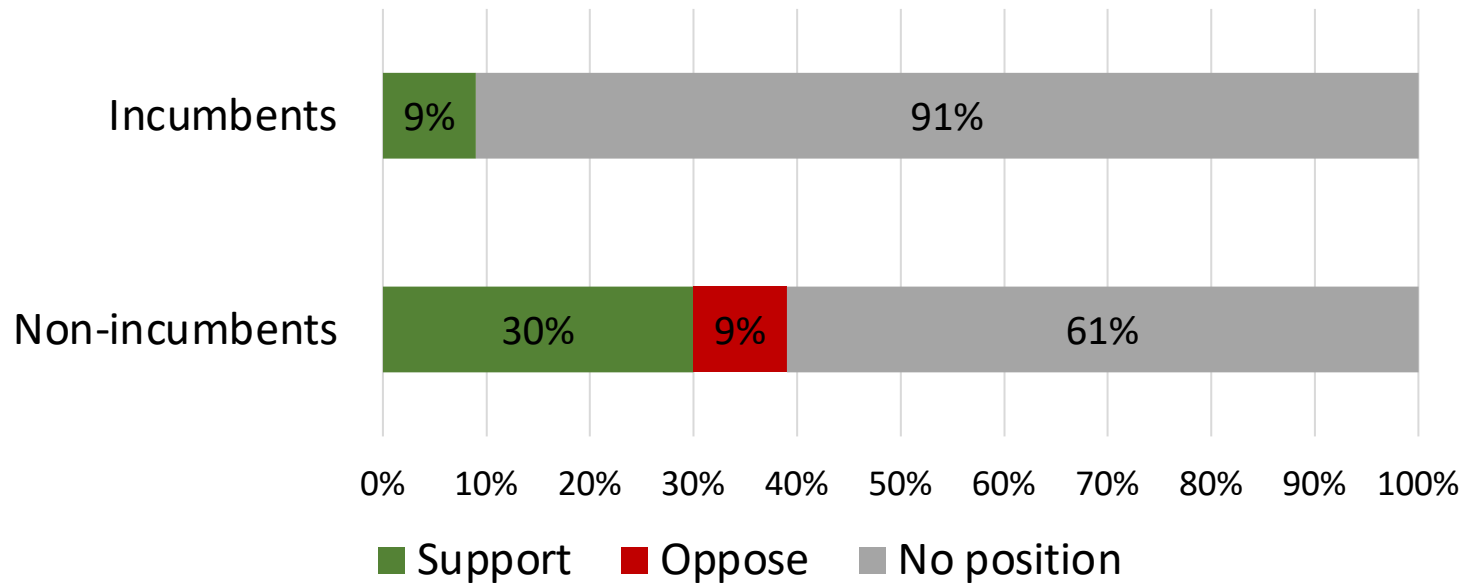
They oppose it.

Incumbents: 31%
Non-incumbents: 26%

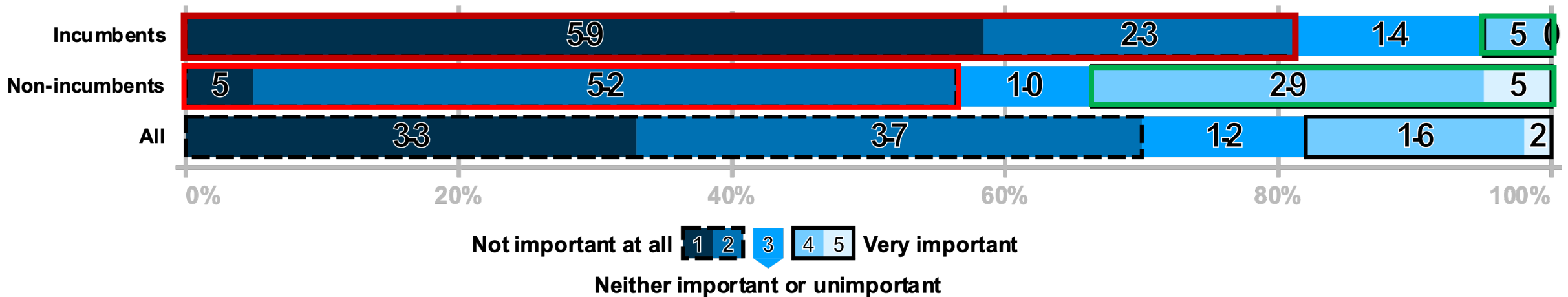
I don't know?

Incumbents: 26%
Non-incumbents: 7%

Have you made public statements in support or opposition to state legislative efforts to decriminalize marijuana for adult personal use?



How important have local policies on MPE been in the 2022 prosecutor election in your jurisdiction?



- 82% of incumbents favor unimportance v. 57% of non-incumbents
- 5% of incumbents favor importance v. 33% of non-incumbents

Which policies won elections?

- Out of all candidates, 33% of winners had policies of non-enforcement, diversion, or lower priority v. 17% of winners with policies of full enforcement or case-by-case treatment

