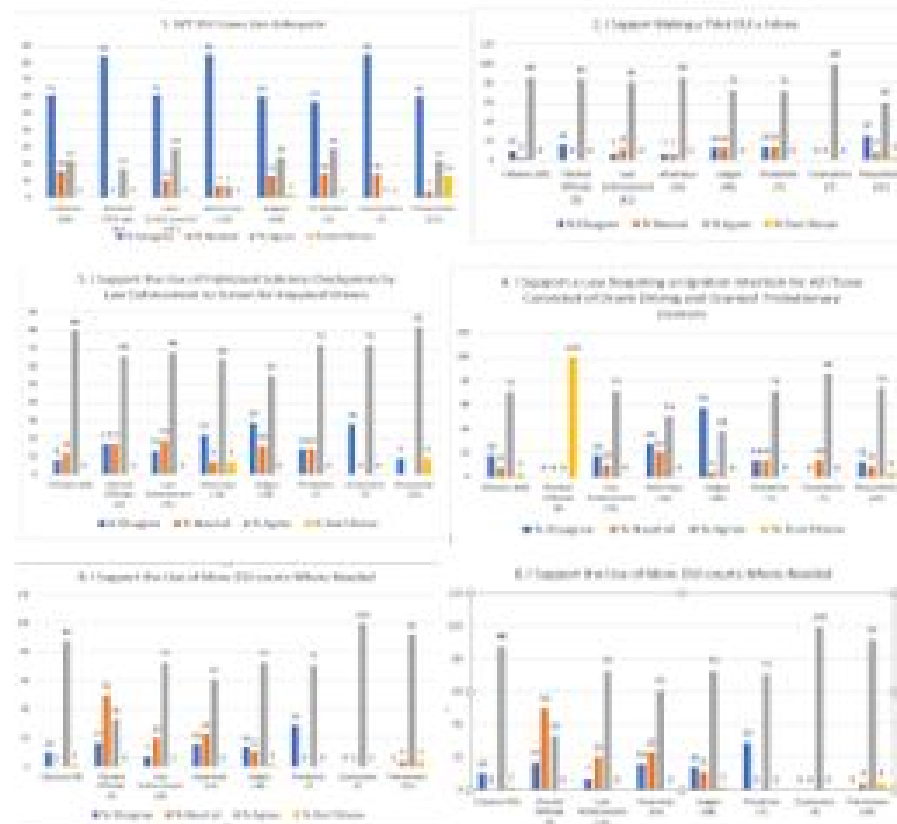


# Montana DUI Task Forces and Judges DUI Survey Analysis and Recommendations June 2018

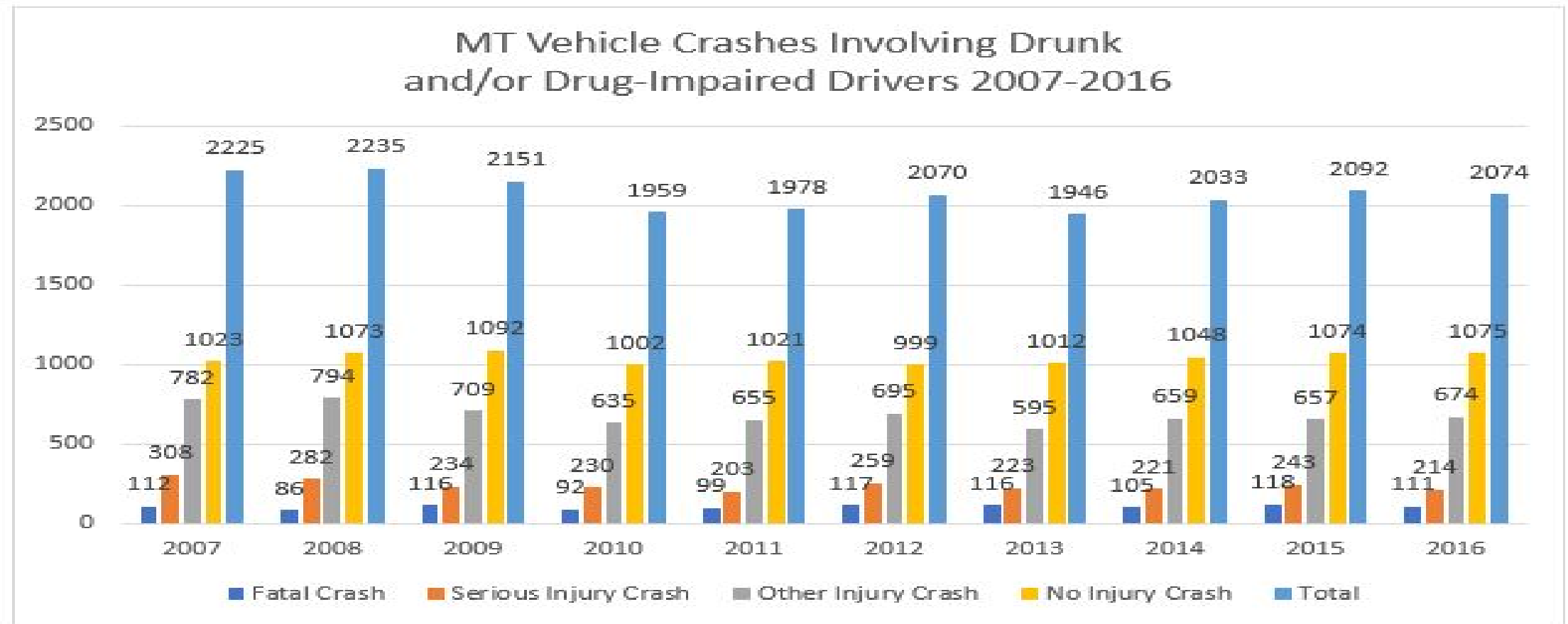
DUI Law Committee  
Cascade County DUI Task Force  
Great Falls, Montana



# Montana's Impaired Driving Problem

- Deaths by drunk drivers are roughly twice the national average per 100 million miles driven
- Montana led nation in 3 of last 5 years for highest percentage fatal accidents caused by drunk drivers
- Montana vehicle fatalities caused by drunk drivers increased from 38% in 2007 to 45% in 2016.
- Montana vehicle fatalities involving drivers that had more than twice the legal limit of alcohol in their system jumped sharply from 30% in 2007 to 36% in 2016.
- In 2016 46% of suspected DUI offenders refused to take a breathalyzer test. This was twice the national average refusal rate of 24%
- Montana had nation's third highest incidence of drivers in fatal accidents who tested positive for drugs per 100,000 population from 1995-2013
- Montana was rated last nationally by MADD (Mothers Against Drunk Driving) in the effectiveness of its DUI laws
- **(Montana DUI Task Forces and Judges DUI Survey Analysis and Recommendations June 2018)**

The following graph is from Montana Dept. of Transportation Crash Data at <http://www.mdt.mt.gov/publications/datastats/crashdata.shtml> |



Note in the above graph that the total number of fatalities annually are consistently around 100 and the number of serious injuries vary between 200 to 300 annually, while less severe injuries average around 600 to 700 annually. An average of over 1000 Montanans are killed or injured each year in accidents involving impaired drivers.

# Countermeasures That Work:

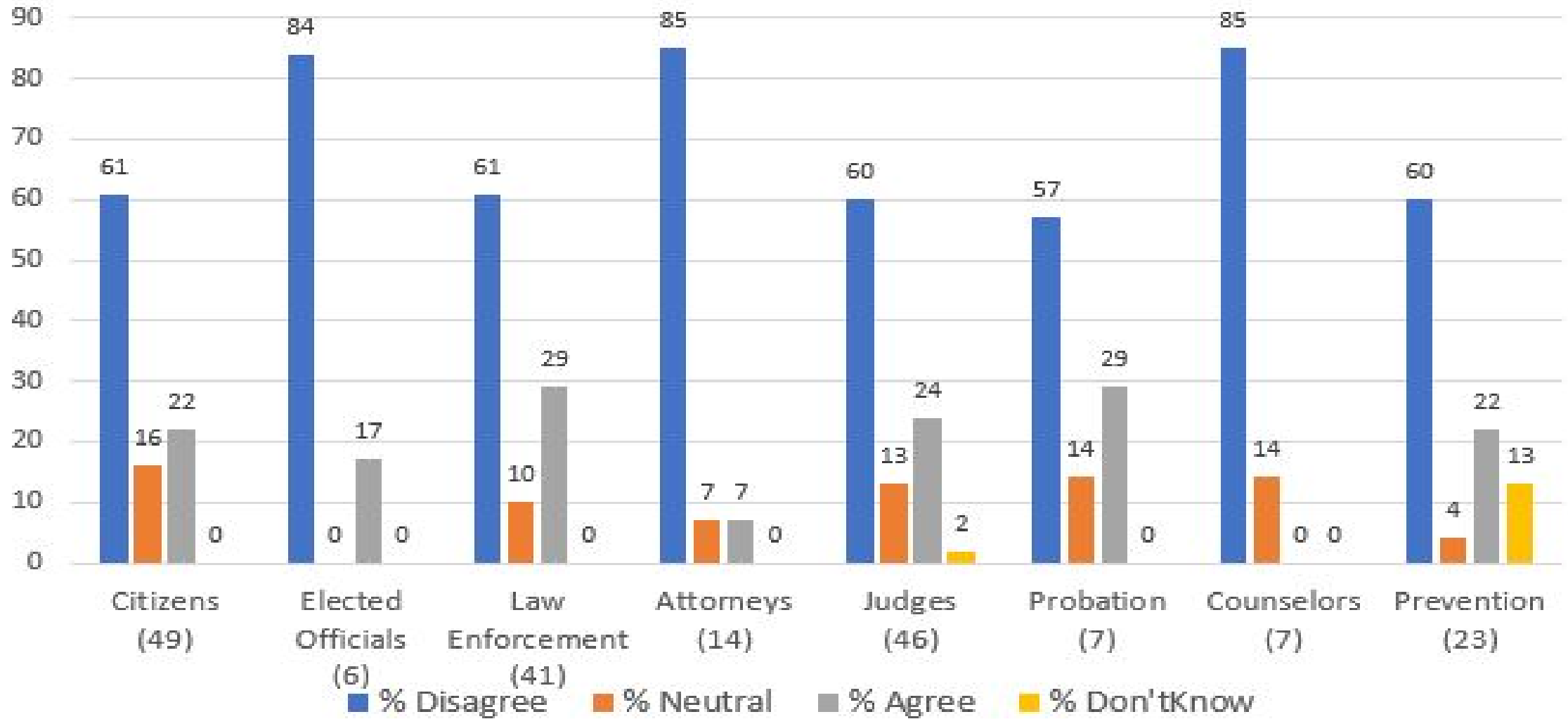
A Highway Safety Countermeasure Guide  
For State Highway Safety Offices  
Eighth Edition, 2015



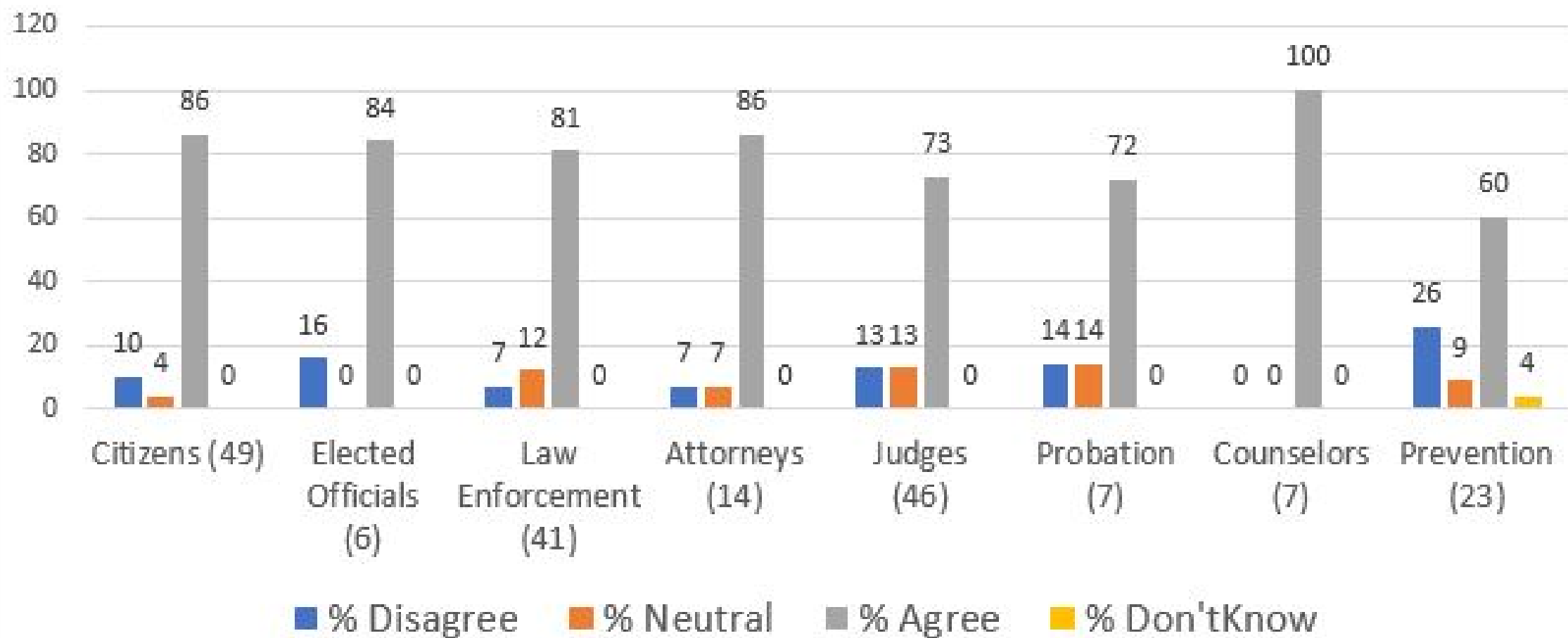
U.S. Department of Transportation  
National Highway Traffic Safety Administration

★★★★  
**NHTSA**  
www.nhtsa.gov

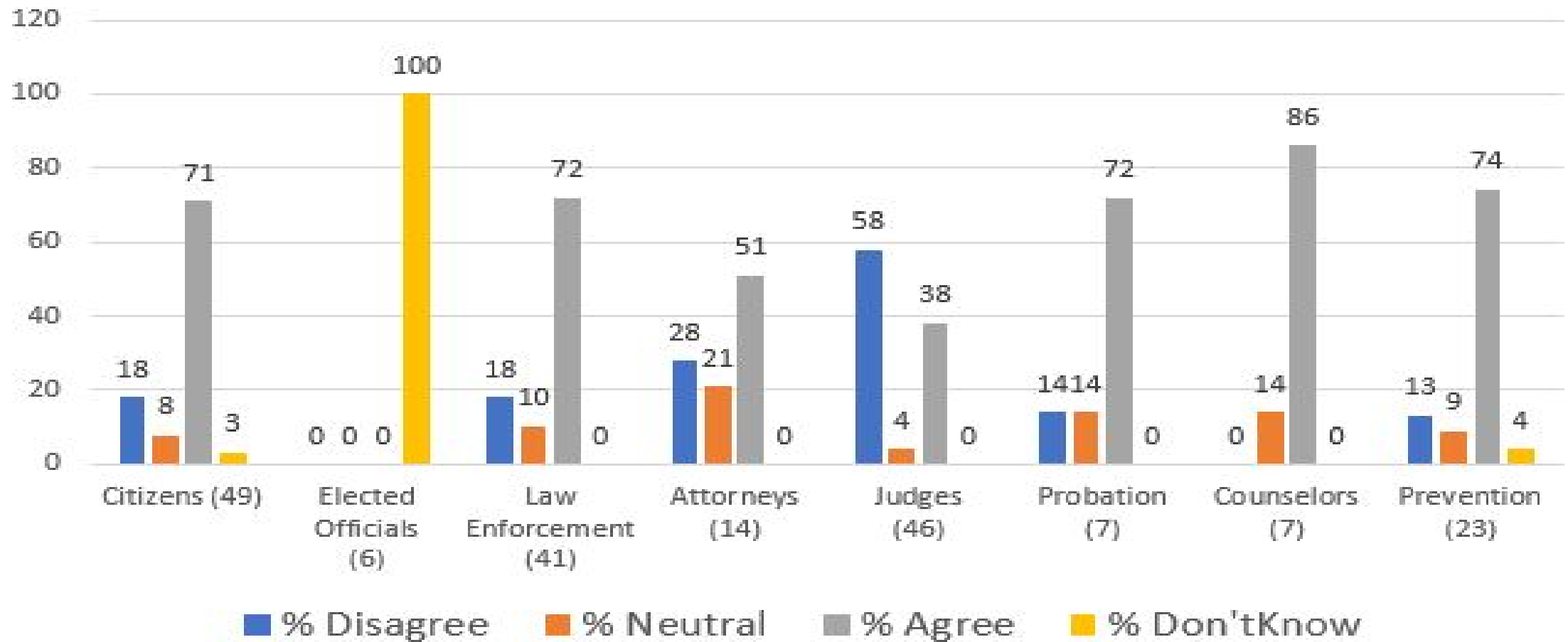
# 1. MT DUI Laws Are Adequate



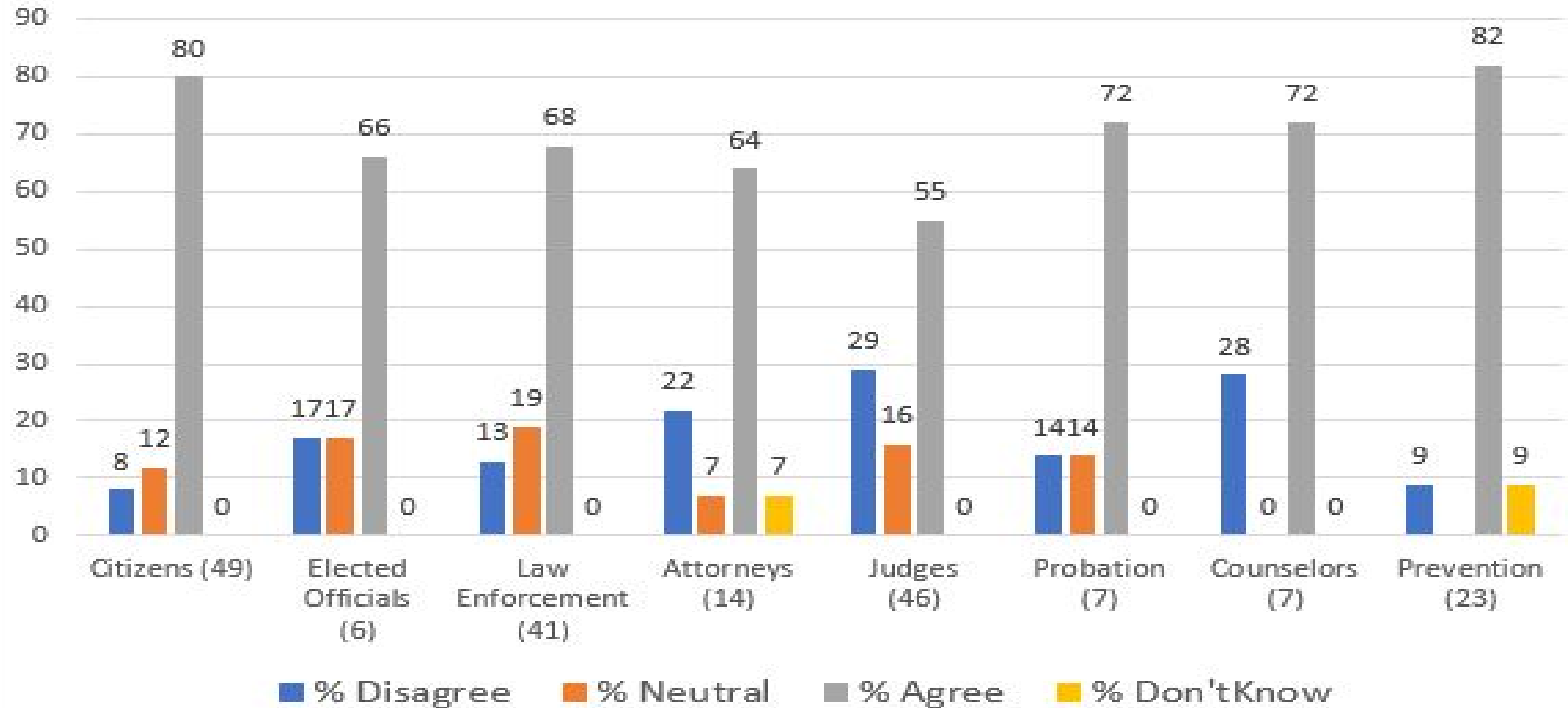
## 2. I Support Making a Third DUI a Felony



#### 4. I Support a Law Requiring an Ignition Interlock for All Those Convicted of Drunk Driving and Granted Probationary Licenses

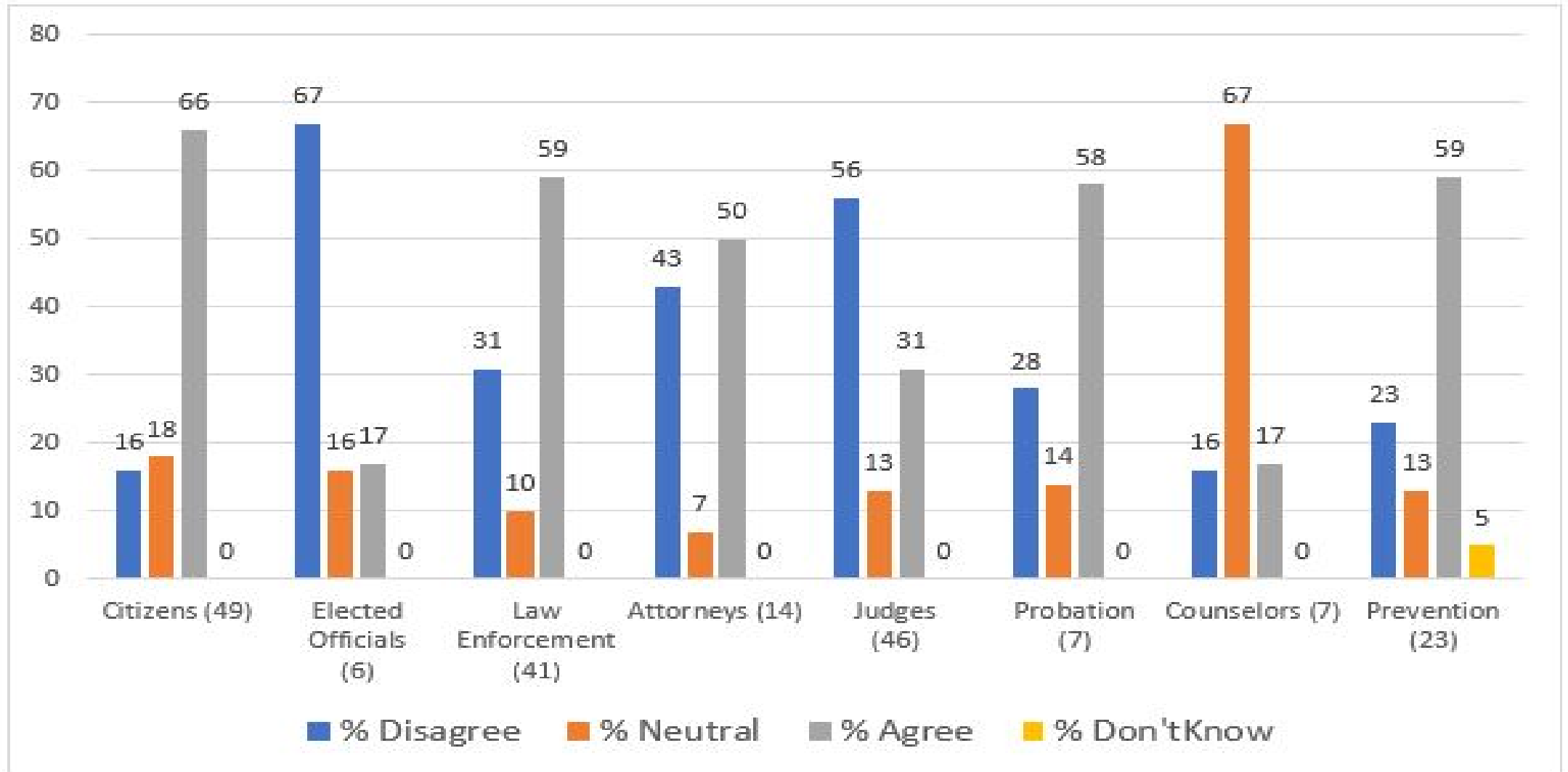


## 5. I Support the Use of Publicized Sobriety Checkpoints by Law Enforcement to Screen for Impaired Drivers

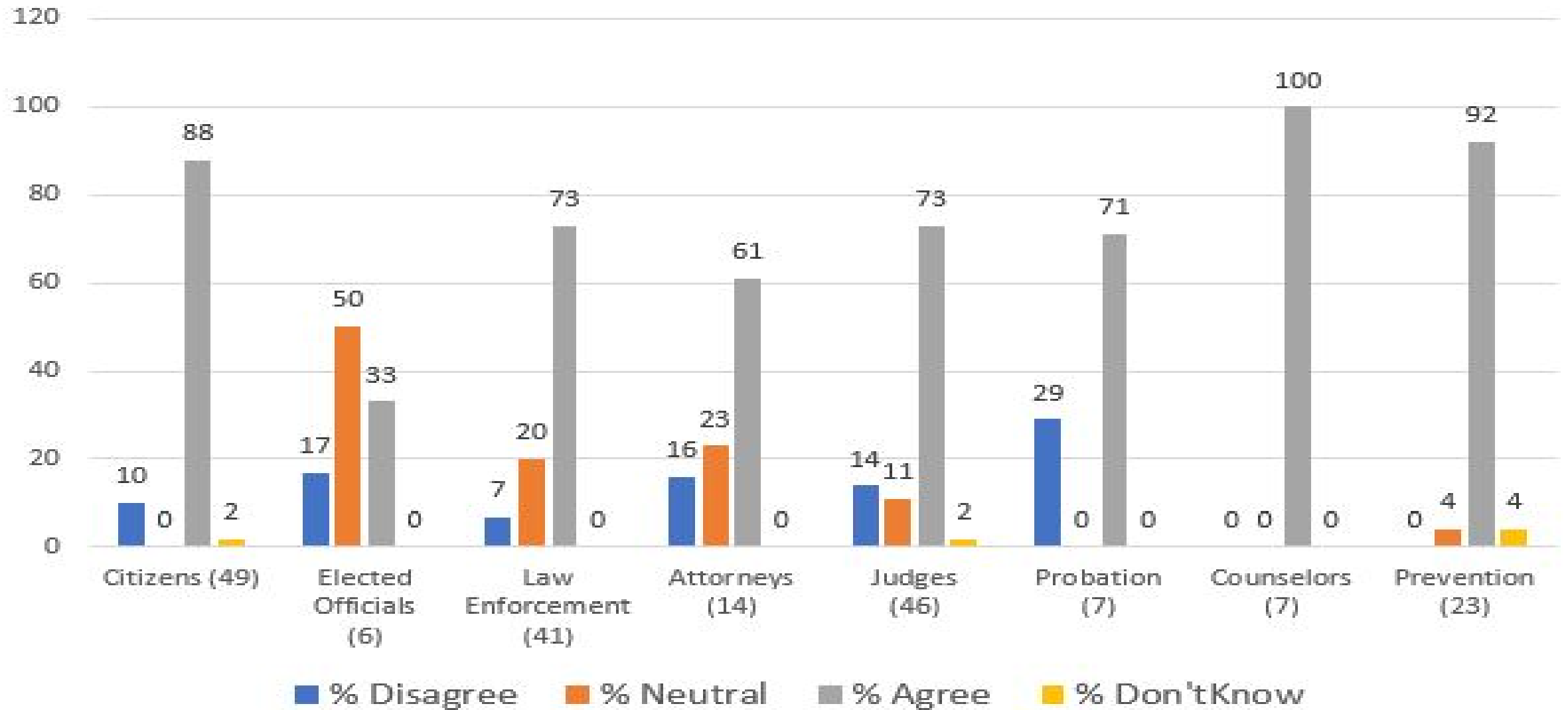




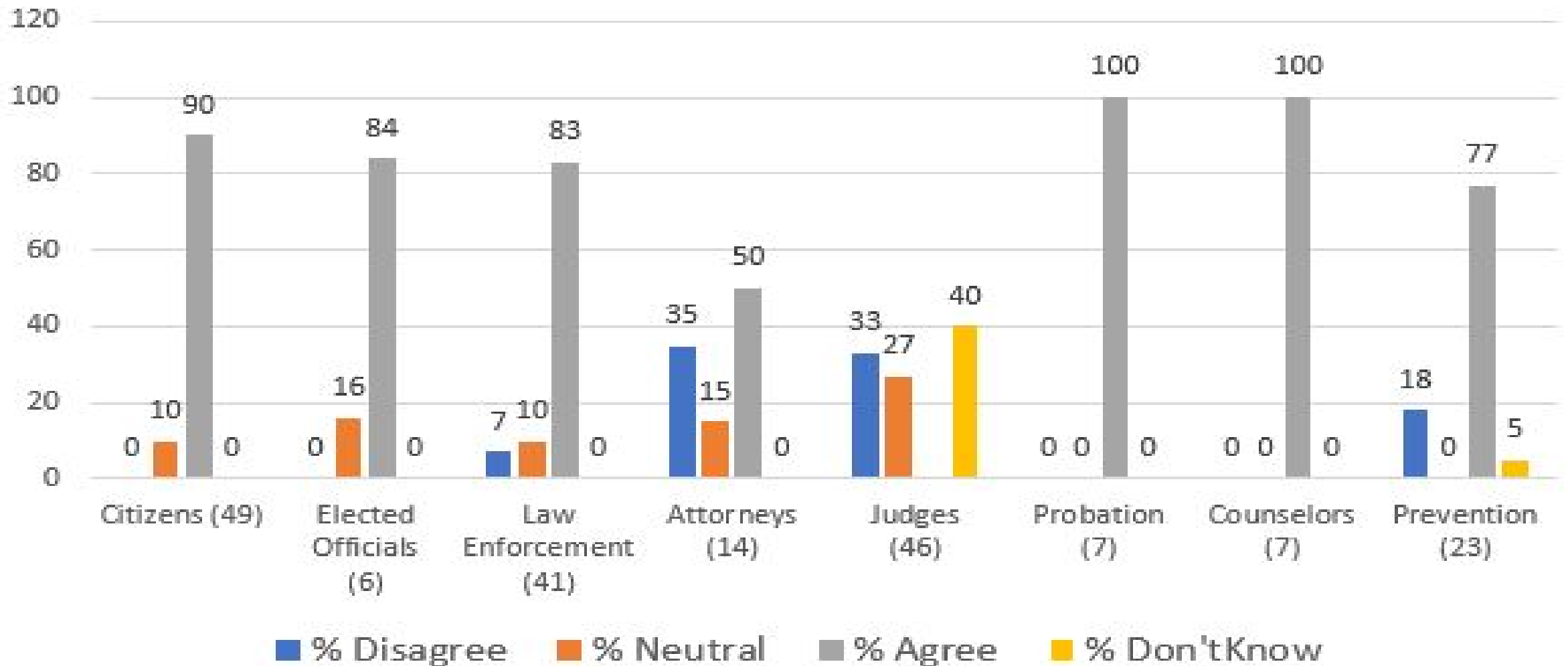
## 6. The Current 24/7 Sobriety Program Should be Required For First-Time DUI Offenders



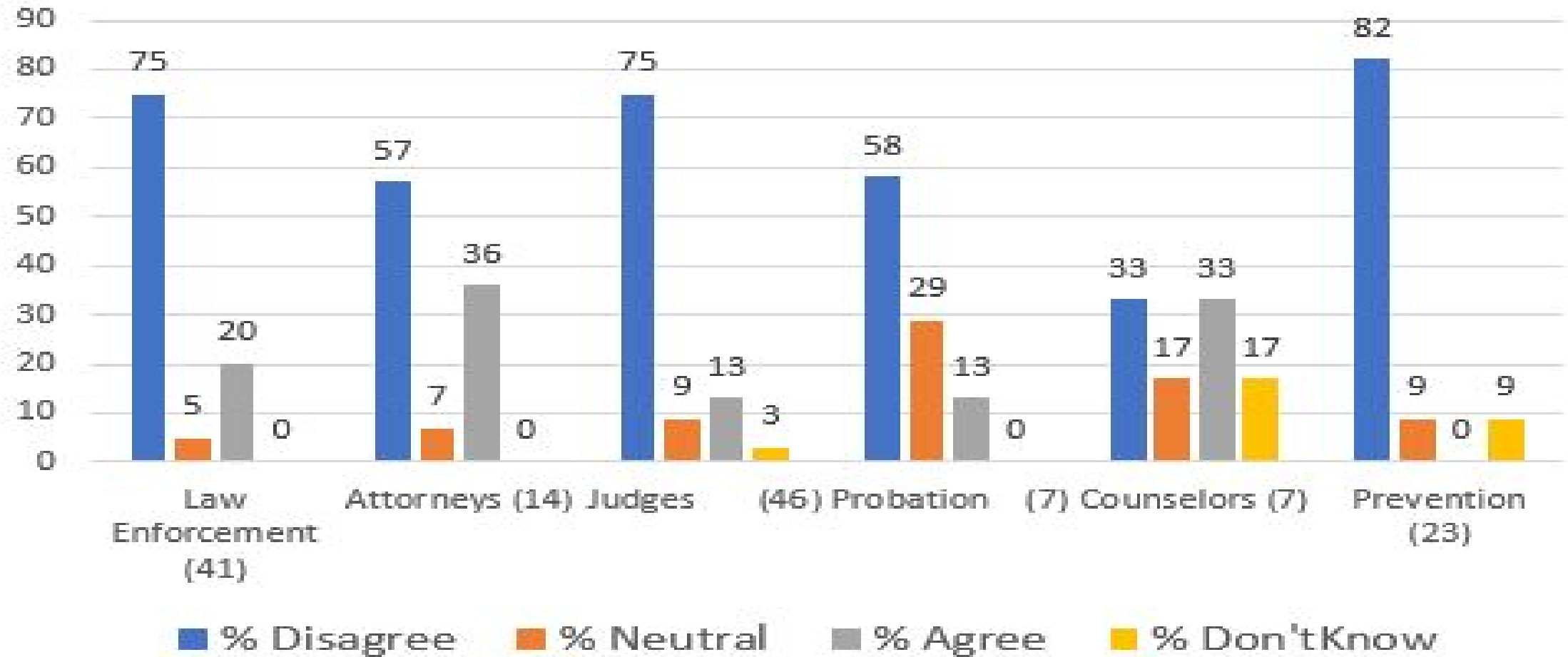
## 8. I Support the Use of More DUI courts Where Needed



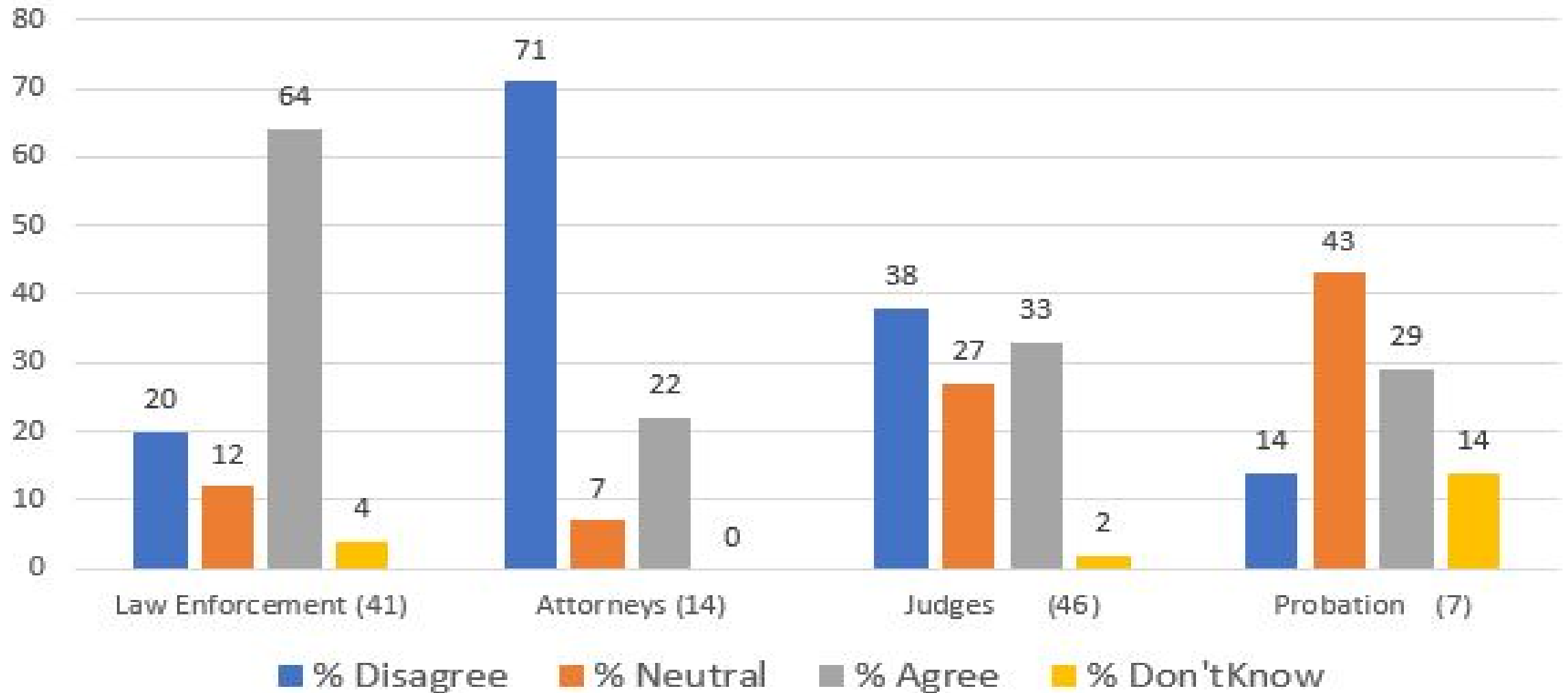
## 11. I Support Requiring the State to Electronically Gather Annual Judicial Statistics



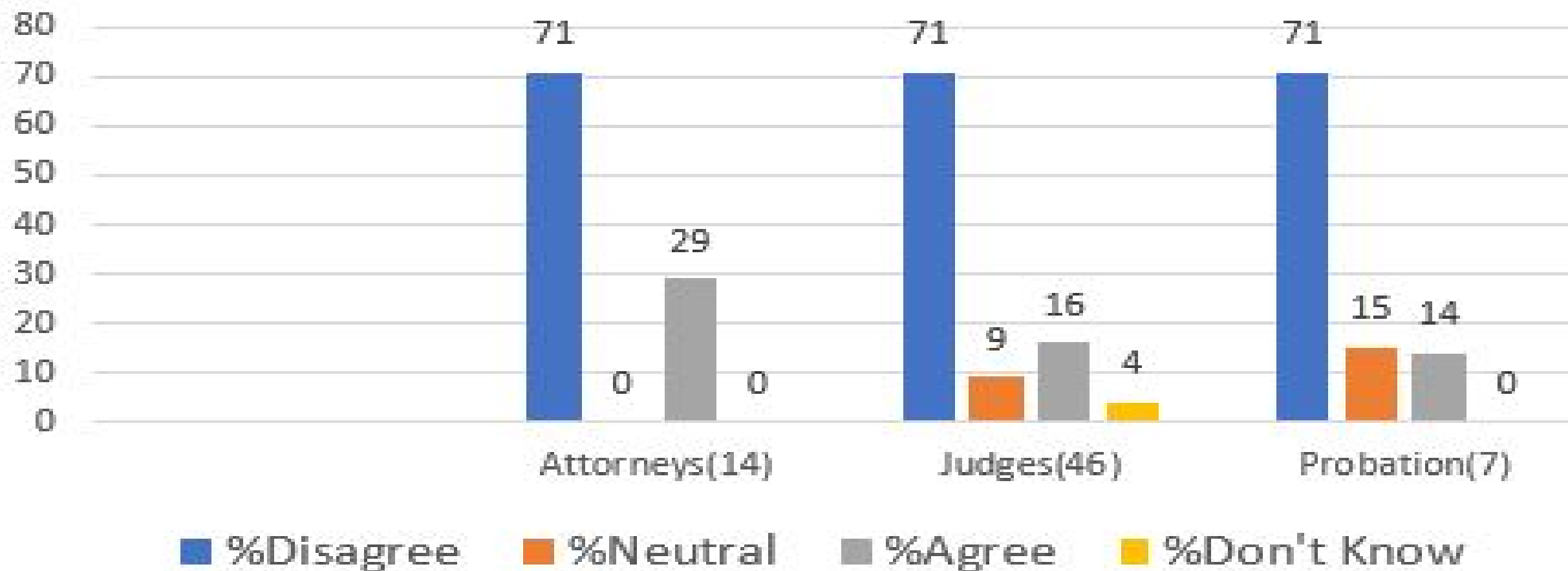
### 13. We Have Adequate Resources for Staff, Facilities, Training, Equipment, and New Technology



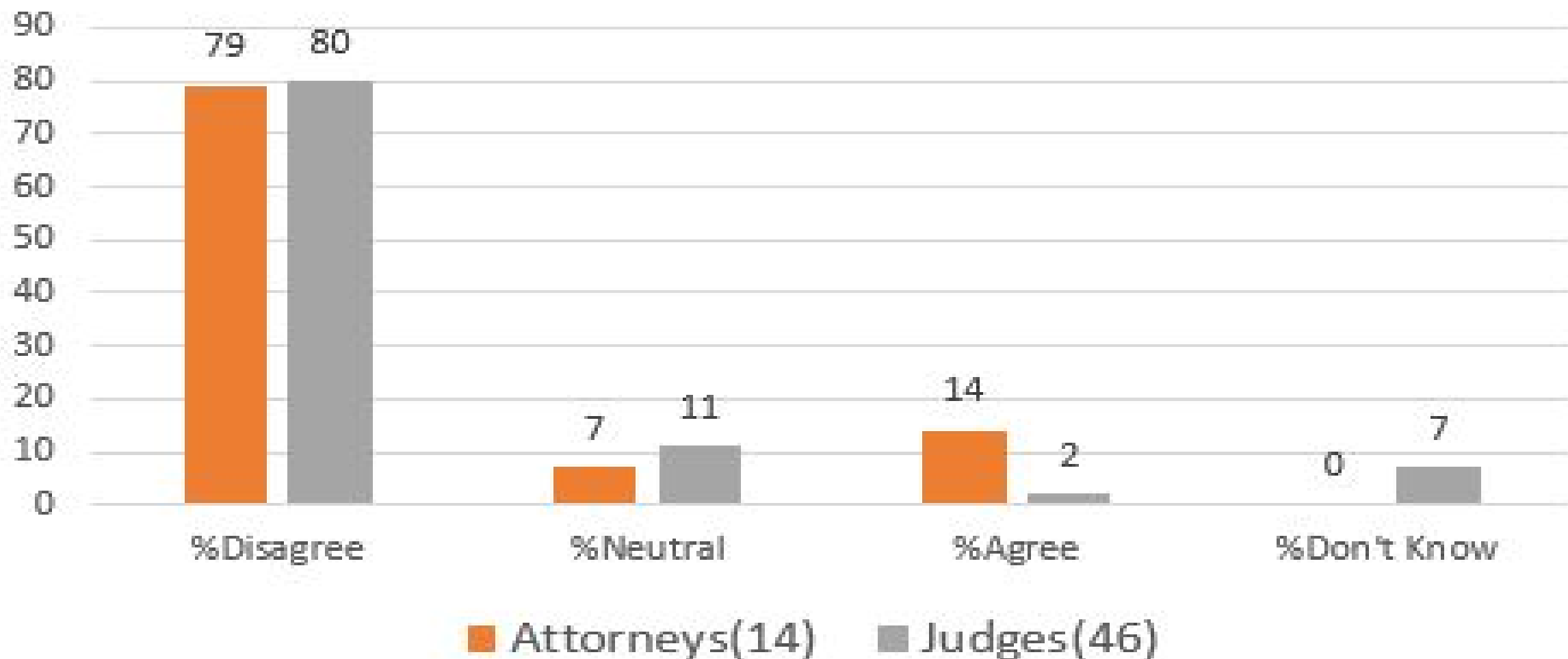
## 17. First-time DUI Suspects Refusing to take a Breathalyzer Test are Often Able to Plead to a Lesser Charge of Reckless or Careless Driving



19. We have the Resources to Provide Adequate Monitoring of Convicted DUI Offenders According to the Risk Posed by the Offender



### 23. We Have Adequate Treatment Facilities, Staff, and Budget for Those DUI Offenders Needing Addiction Treatment



# Primary Recommendations



# 1. Make a third DUI a felony.

- Montana felony DUI offenders conservatively estimate they have driven 369 times per conviction, or over 1000 times for 3<sup>rd</sup> DUI.
- Longer prison sentences for repeat DUI offenders helps protect public
- 180 day long WATCH (Warm Springs Addictions Treatment & Change) addiction recovery program only available to felony offenders
  - 87% probation/parole compliance, including no DUI's, by graduates monitored while on parole. (Much higher success than other addiction programs)
  - Current enrollment down because HB 133 allowed felony DUI offenders option to go to DUI Courts, instead
  - Cost is less than \$65 per day, or about half that of other prisoners in Dept. Corrections
  - Can be retaken with adjusted curriculum for graduates that recidivate with a DUI

## 2. Require the use of well-publicized Sobriety Checkpoints by law enforcement and provide additional funding to encourage their regular use for maximum effectiveness.

- The Supreme Court (Michigan vs. Sitz) ruled that sobriety checkpoints are constitutional because the small inconvenience that drivers face is overwhelmed by a compelling state interest in saving lives. 38 states use Sobriety Checkpoints
- Montana has elected not to use them (some argue state constitutional concerns)
- MT legislature passed 2017 Temporary Roadblocks bill but made it illegal to use them to issue charges for secondary offenses, such as an impaired driver (Why do we make it so hard on ourselves?)
- Strong consensus from professionals surveyed to use them to reduce DUI's
- 65% of Montanans were in favor of stronger laws to reduce alcoholism
- Their use would likely decrease drunk driving by 10 to 16% or more as evidenced in many research studies.
- Costs to run them are more than made up by savings in reduced DUI crashes
- Funds can be made available for this and will be discussed later

3. Require the state to electronically collect annual DUI case statistics by court and judge, including the number of DUI cases heard, the number of DUI cases dismissed, the number of DUI cases pled to lesser offenses, the number of DUI cases resulting in DUI convictions, and any other statistics that help the state assess the effectiveness of these courts in dealing with DUI cases.

- NHTSA in its 2016 Impaired Driving Assessment of Montana recommended similar collection of court and other data to be able to monitor how DUI's are being adjudicated.
- Addresses concerns expressed by law enforcement and citizens in survey that some lower court judges are consistently soft on DUI's
- Is a substitute for monitoring court DUI cases by volunteers, a countermeasure previously used nationally to reduce the problem of soft judges
- Costs would be minimal, adding additional data requirements to existing requirement of courts to report statistics
- Data collected could either be used by state agencies dealing with adjudication, or made public annually
- Would likely be required only for lower courts dealing with misdemeanor DUI's

What can we do to address widespread concerns expressed in this survey about the lack of resources to fund prevention; DUI law enforcement; DUI adjudication; close monitoring; incarceration; and treatment for DUI offenders?

# Funding Opportunities to Reduce DUI's

- NHTSA in its 2016 Impaired Driving Assessment of Montana made several suggestions:
  - Make a 10 cent per drink tax to go to prevention and treatment programs
  - Increase percentage of DUI fines going to such programs (none currently).
  - Relook at alcohol taxes to increase prevention funding

Currently beer taxes are lower in MT than 80% of the other states. Current tax paid for a 12 oz. can of beer is?

1.3 cents per can! Only one fourth of the beer tax goes to prevention or treatment! Imagine how increasing the beer tax by just a few cents per can and allocating all of that additional tax to prevention, DUI law enforcement, addiction treatment, and incarcerating DUI offenders can reduce DUI's in Montana.

# Summary of DUI Task Forces and Judges Survey Analysis and Recommendations Document

- We are presenting today only five primary recommendations
- The document has an additional 34 recommendations
- The entire document can be found at the website for [zeroduideaths.org](http://zeroduideaths.org)
- Document contains an appendix describing research findings on these recommendations
- Document will be released to the public in August or September
- We urge your support by drafting and supporting legislation that addresses our concerns and recommendations

Becky Sturdevant will now address our recommendation to require either an ignition interlock or close monitoring for a first time DUI offender. After that Trooper Dan Arnold will address our recommendation to allow telephonic warrants by law enforcement where needed for first time DUI offenders.

## 4. Require either close monitoring or ignition interlocks for first-time DUI offenders

- Both are key countermeasures recommended by National Highway Traffic Safety Administration (NHTSA)
- Costs shall be paid for by the offender, except where the indigent may need local or state government assistance
- 80% of repeat DUI offenders in a study indicated that more severe sanctions at their first DUI conviction would have prevented subsequent drunk driving arrests and convictions. These measures remind first offender daily of their mistake.
- Offenders with Ignition interlocks or close monitoring requirements had greatly reduced recidivism rates while on or shortly after probation/parole.
- Judges have discretion of which to require based on availability, costs, and needs of the offender and society