

Were
“What ~~Are~~ the Odds?”:
A Year of Transition at SCOTX

UT State and Federal Appeals 2026

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This Term, the Court is running
on two very different tracks

There are new rules, a new memo, and new questions

Supreme Court of Texas

Misc. Docket No. 25-9104

**Final Approval of Amendments to
Texas Rules of Appellate Procedure 9, 52, 53, 54, 55, 56, 57, 58, and 64**

ORDERED that:

1. On October 24, 2025, in Misc. Dkt. No. 25-9092, the Court proposed amendments to Texas Rules of Appellate Procedure 9, 52, 53, 54, 55, 56, 57, 58, and 64 and invited public comment.
2. Following the comment period, the Court made revisions to the amendments. This order incorporates those revisions and contains the final version of the amendments, effective January 1, 2026.
3. The amendments in this order apply fully to a case in the Court if the petition for review, original proceeding, or certified question—or the first petition, in a case involving multiple petitions—is filed in the Court on or after January 1, 2026.
4. If a petition for review, original proceeding, or certified question is filed in the Court before January 1, 2026, then the former rules apply in all respects, unless otherwise ordered by the Court.
5. The summary document attached to this order is included for the convenience of the bar and public and is not a part of the rules.
6. The Clerk is directed to:
 - a. file a copy of this order with the Secretary of State;
 - b. send a copy of this order to the Governor, the Lieutenant Governor, and each elected member of the Legislature; and
 - c. submit a copy of this order for publication in the *Texas Register*.

New Rules

Supreme Court of Texas

Supreme Court Procedures Summary

In Misc. Dkt. No. 25-9104, the Court amends the Texas Rules of Appellate Procedure to eliminate the Court's practice of requesting merits briefs before granting a petition for review, effective January 1, 2026. The amendments apply to a case in the Court in which the petition—or the first petition for review, in a case involving multiple petitions—is filed on or after January 1, 2026. The purpose of this summary is to explain how the Court's processes will change—and, in many cases, remain the same—to accomplish this objective. This summary is shared to document the Court's ordinary practices for the benefit of the bar and public and is not intended to bind the Court. On occasion, strict adherence to these procedures may undermine rather than effectuate the underlying goal of effective judicial administration or may be impractical for other reasons.

Petition for Review

- A petition for review remains the primary means to seek the Court's review of the decision of a court of appeals. Before filing a petition for review, one should carefully review Texas Rule of Appellate Procedure 9, which establishes word and page limits, margins, font sizes, and other format requirements. One should also carefully review Texas Rule of Appellate Procedure 53, which sets out the necessary contents of and deadlines for filing a petition for review.
- In Rule 9.4(i), a 2,000-word increase to the word limit for a petition for review will allow the Court to decide whether to grant a petition for review based entirely on the petition-stage briefing.
- The word-limit increase is intended to accommodate the expanded focus of a petition for review. Rule 53.2 now requires a petition for review to address more robustly the merits of the appeal and error preservation. It also eliminates the practice of "unbriefed" issues to avoid the Court inadvertently granting review.
- Rule 53.2 also reorganizes a petition for review's contents to place a greater emphasis on the introduction. The goal of petitioner's introduction section is to explain enough about the case, its importance, and the merits to illustrate its plausible inclusion within the Court's merits docket. A well-framed introduction will motivate members of the Court to read beyond that section with care. Conversely, clear introductions help the Court more

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SCOTX's "Procedure Summary" Memo

SCOTXblog

Guidance from the Texas Supreme Court about how the new petition rules will work

📅 March 26, 2026 · 🖋️ Don Cruse

IOPs vs. "inferred" operating procedures

For a number of years, the Texas Supreme Court published a set of "internal operating procedures" (IOPs) on its website, with a detailed look at the internal process. The most recent update to that document (of which I am aware) was in 2018.¹

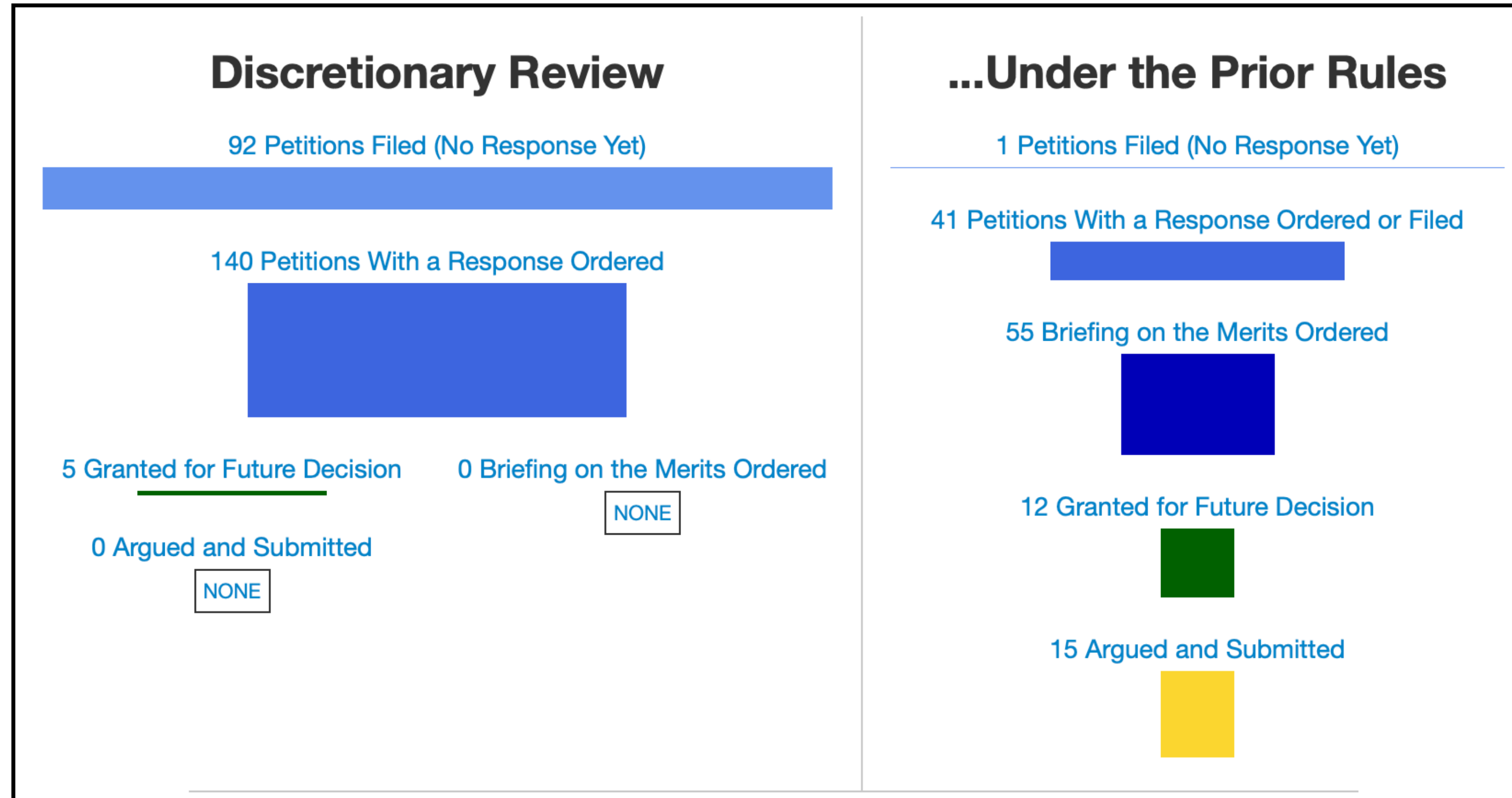
Having published that document did not stop the Court from experimenting. As members of the Court had new ideas, or prevailed on their colleagues to revisit older ideas, the *actual* practice at the Court would change in ways not reflected in the IOPs. (Eventually, the Court removed that 2018 document from its website.)

My own CLE presentations would typically have a "show and tell" section, with unusual procedural things I had seen in the SCOTX docket. Members of the Court would sometimes be asked about those at panel discussions, even at the same conference. The result was a kind of oral folk knowledge about the Court's practices. At least once, something was so unusual that it broke through to the legal press even before a conference. That was the April

2022 decision by the Court to grant a petition for review based on the

I've updated my website to track the "old" and "new" petitions in parallel

New Rules
(two paths,
grant off PFR
or optionally
order BOMs)



Old Rules
(one main
sequence,
through the
BOM stage)

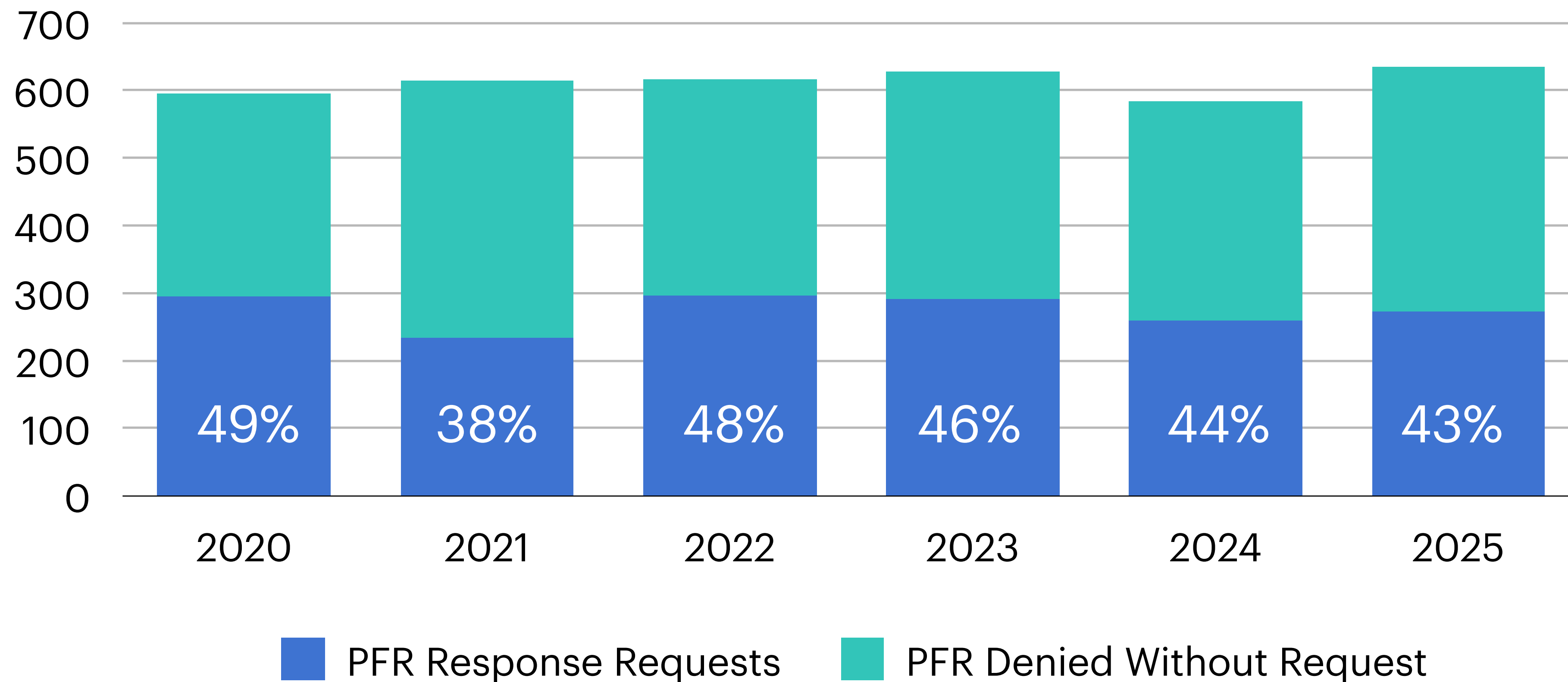
<https://data.scotxblog.com/staging>

What do the raw numbers look like
in *this* transitional year?

1. Likelihood of a Response Request

~ 45%
(under old rules)

This is the percentage of petitions for review for which a response was requested (excludes parental-termination cases).



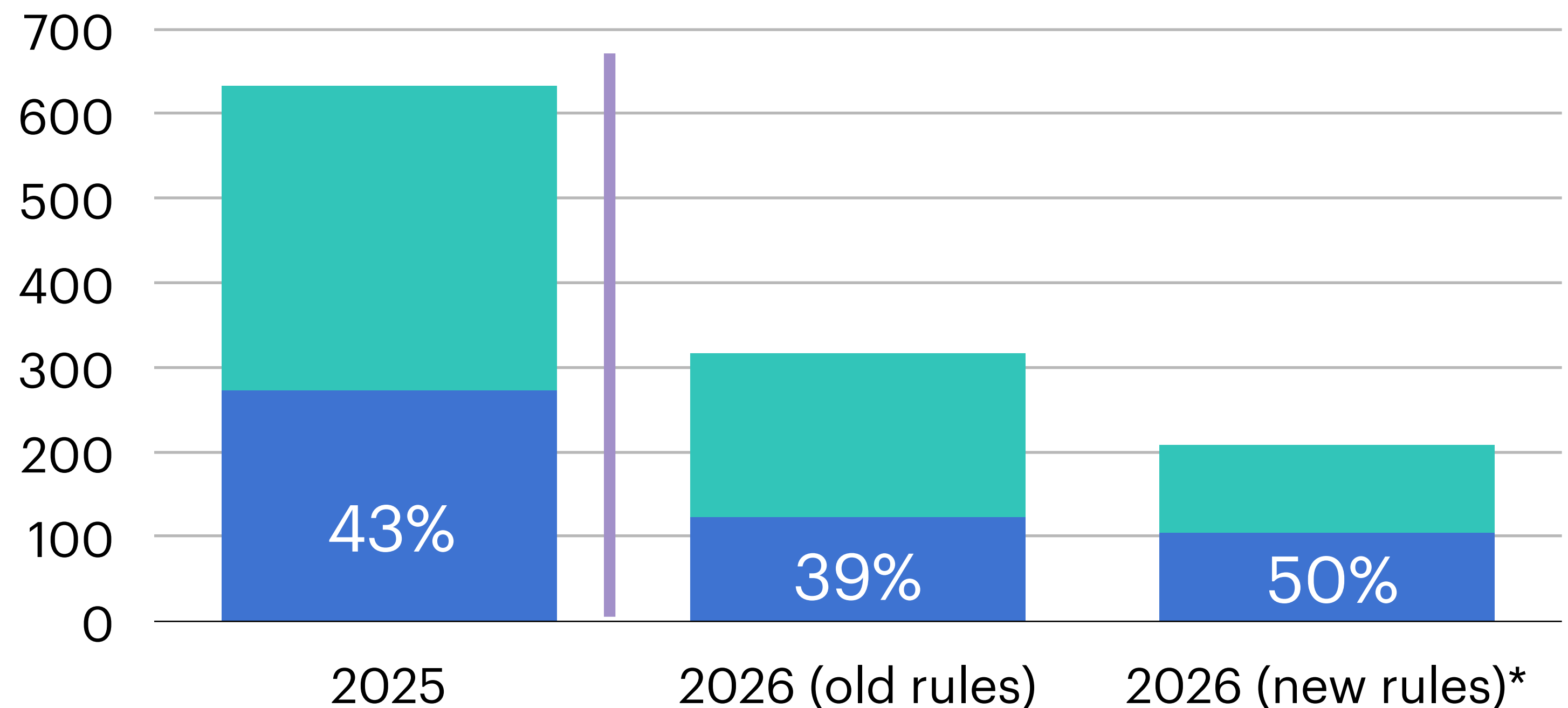
1. Likelihood of a Response Request

~ 45%
(under old rules)

What about *this* Term?

PFRs filed before Dec. 31 are under the old rules. Around the low end of the range for recent terms.

PFRs filed after Jan. 1 are under the new rules. On the high end (so far).



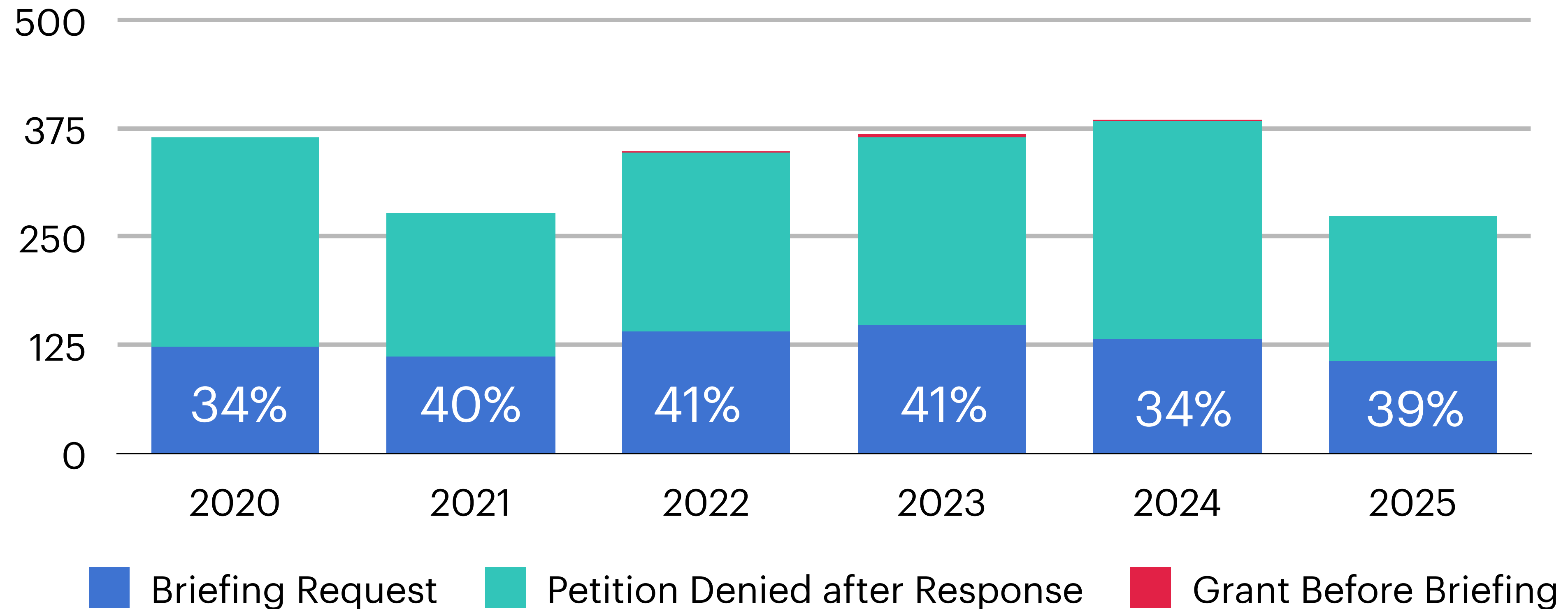
■ PFR Denied Without Request
■ PFR Response Requests

* PFRs filed by March 31; court action by June 5

2. Likelihood of a Briefing Request

< 40%
(under old rules)

This is the percentage of those cases in which a response was filed or requested where the Court orders full merits briefing.



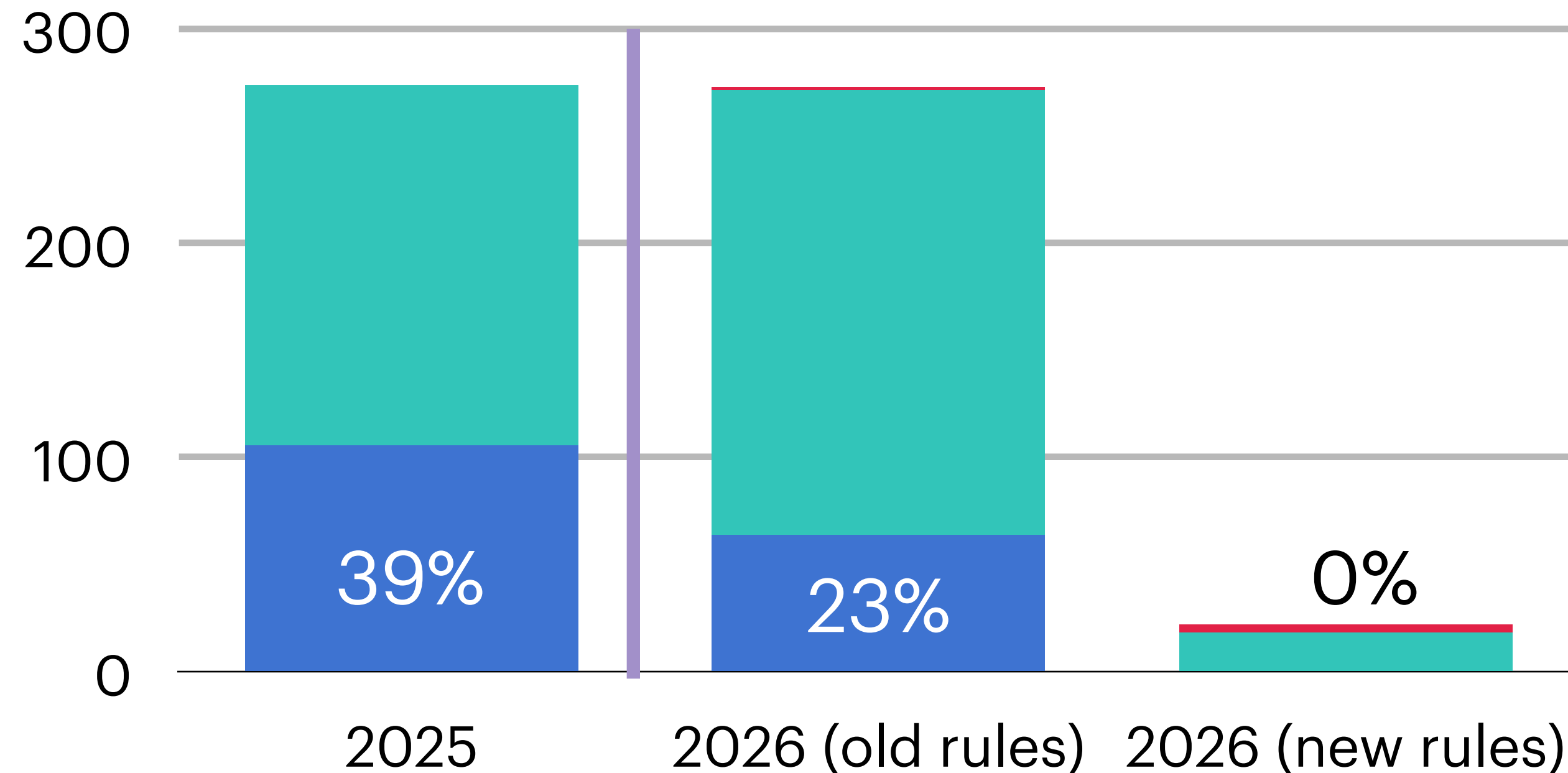
2. Likelihood of a Briefing Request

< 40%
(under old rules)

What about *this* Term?

PFRs filed before Dec. 31 are under the old rules. Fewer BOM orders so far, but the Court often makes these requests in June.

PFRs filed after Jan. 1 are under the new rules. No BOM orders—yet?



3. Likelihood of a Grant or Per Curiam

~ 55%
was: ~ 40%

This shows how the Court eventually disposed of the petitions that it had chosen for full merits briefing.

FY ended Aug. 31	Grant for Argument	Grant as Per Curiam	Total Odds of Grant
2020	33%	16%	49%
2021	41%	10%	51%
2022	47%	10%	57%
2023	42%	10%	52%
2024	44%	14%	58%
2025	41%	18%	59%

3. Likelihood of a Grant or Per Curiam

The math will be a little different for future terms:

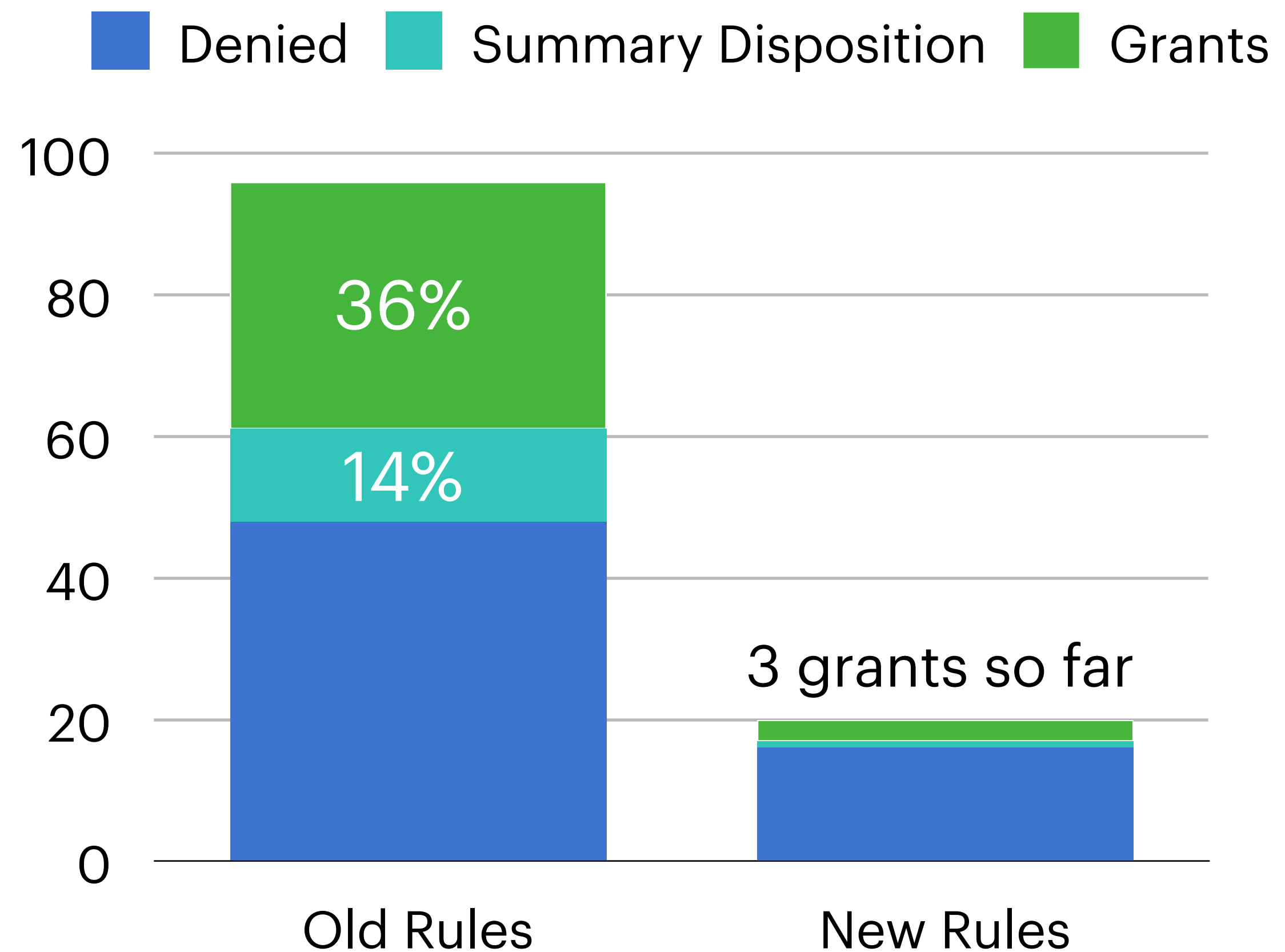
- Under the old rules—including the previous slide—I computed the “grant percentage” as a percent of cases **for which BOMs were requested** that resulted in a grant or per curiam.
- Under the new rules, grants will primarily be made off the PFR and response—before any BOM is requested. So the denominator will be *much bigger*: “**PFRs with a response on file**” rather than “PFRs that are fully briefed on BOMs.”

3. Likelihood of a Grant or Per Curiam

What about *this* Term?

Old PFRs show a ~50% grant rate for cases in which the Court has full briefing (close to recent years).

New PFRs show only 3 grants so far. The Court has denied review in some—but appears to be holding a significant number of PFRs with a response already on file to be resolved in June (or the Fall).



* There are many PFRs with responses pending, likely to be resolved in June

Seasonal patterns

How did previous changes in the Court's internal process affect these patterns?

We'll use two of those past changes to
define three rough “eras”

~ 2010-2014 ~

- June 2015: Court cleared its docket of argued cases for the first time, starting a new practice

~ 2015-2020 ~

- 2020 Term: A sharp reduction in the number of cases that were chosen for full briefing

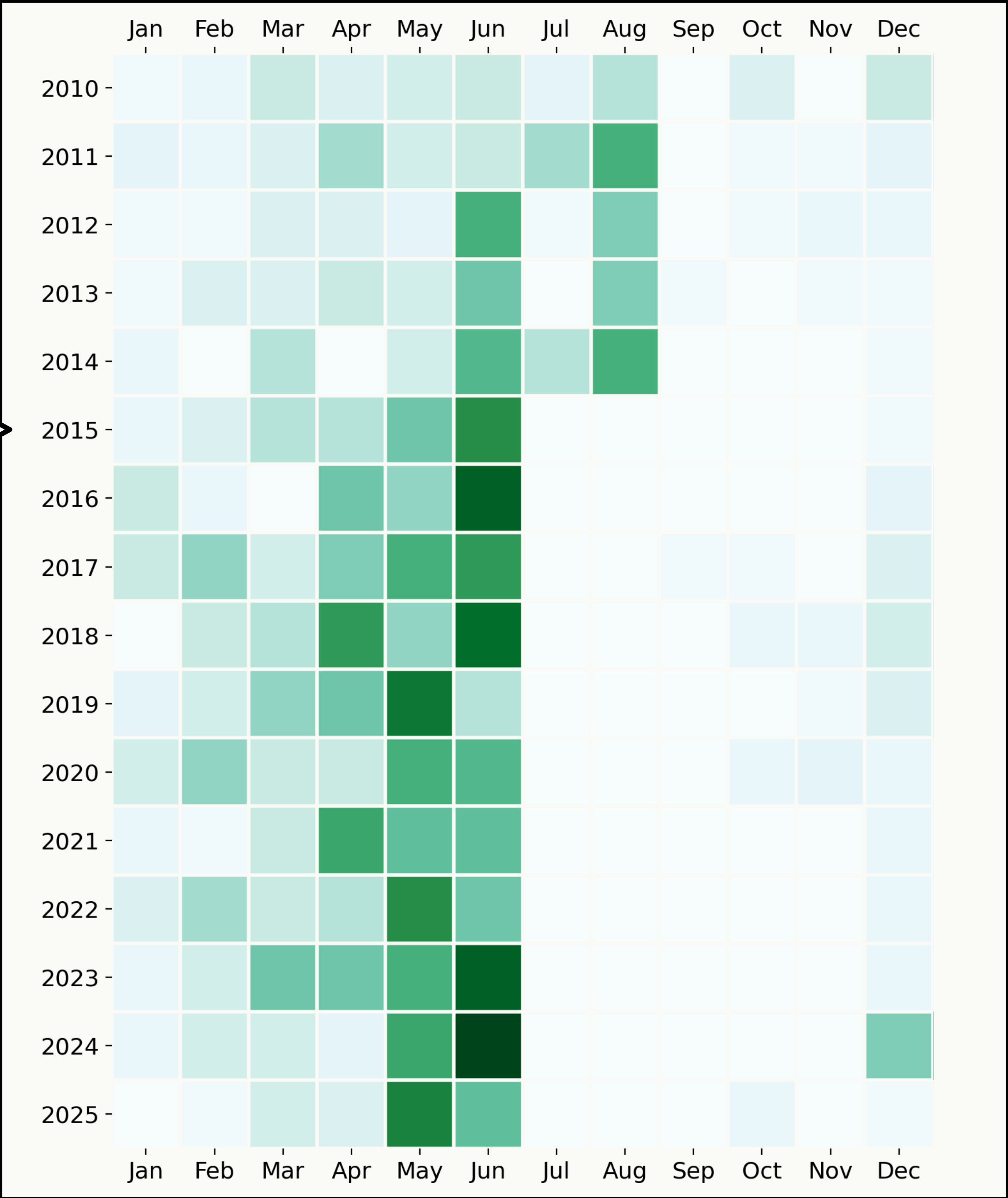
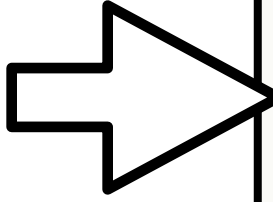
~ 2021-2025 ~

1. The timeline for the Court to issue opinions is more compressed and extremely seasonal

When are opinions issued?

2010-2026 (argued cases)

2015: Court begins clearing its docket by end of June



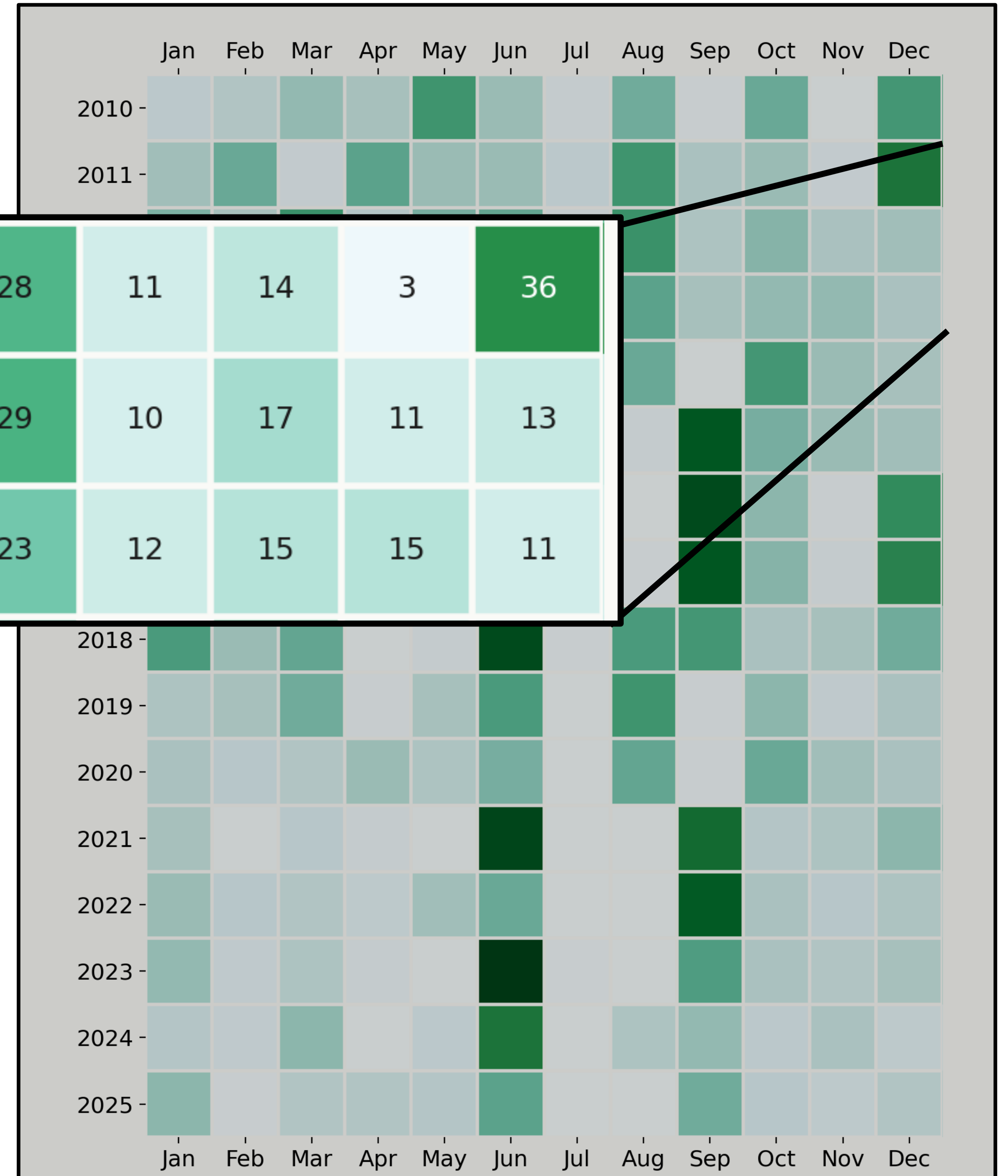
2. Petition response requests don't require a conference vote. The Clerk's office keeps that process moving throughout the year.

3. The Court's BOM requests and petition grants have become highly seasonal — and have been sensitive to past rule changes

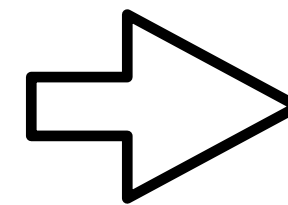
When is briefing ordered?

2010-2025 (PFRs only)

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2011 -	13	21	3	23	14	14	6	28	11	14	3	36
2012 -	18	12	29	8	19	22	2	29	10	17	11	13
2013 -	15	16	25	10	14	17	2	23	12	15	15	11



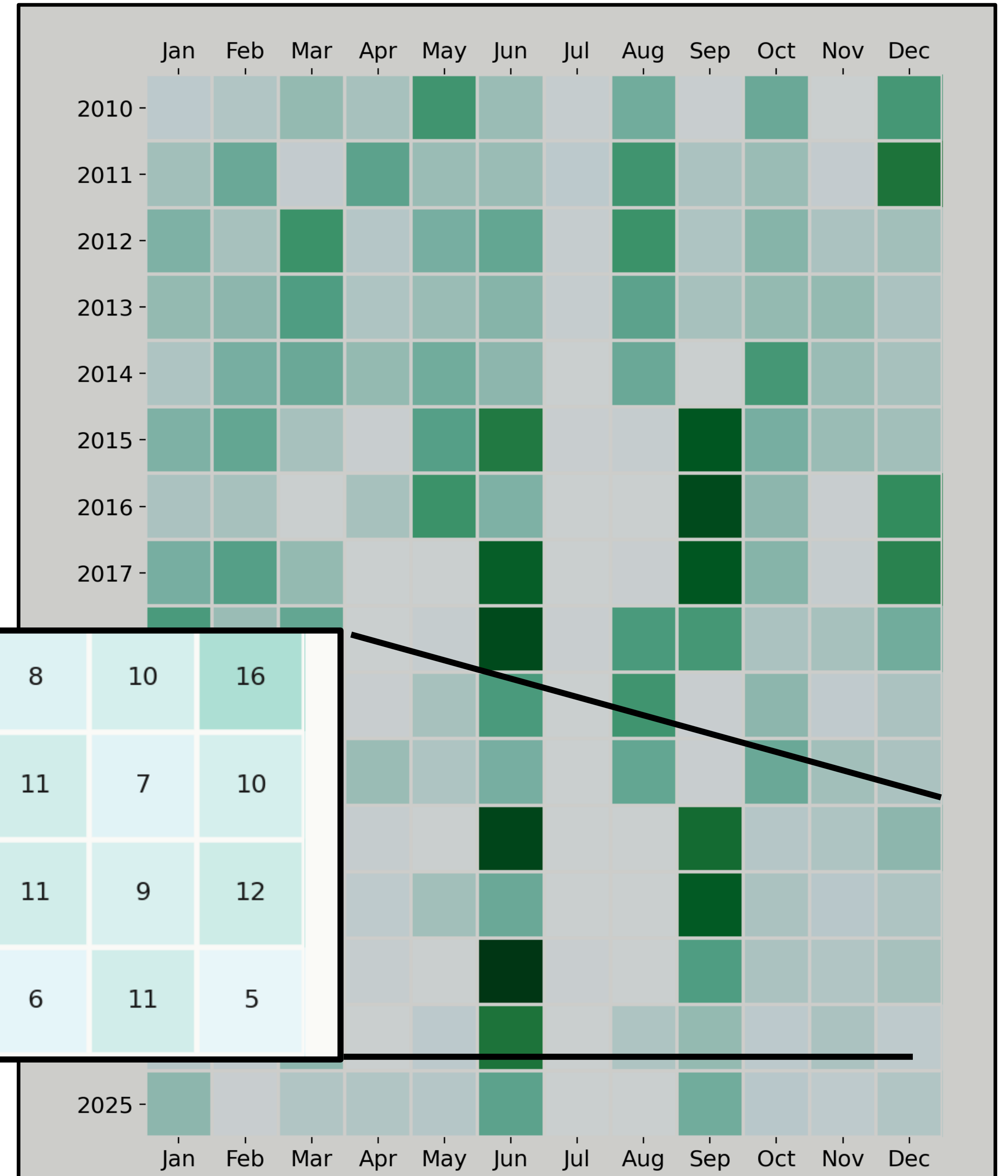
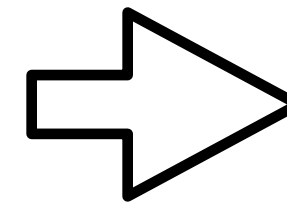
2020: Court starts reducing how many cases get BOM ordered



When is briefing ordered?

2010-2025 (PFRs only)

2015: Court begins clearing its docket by end of June

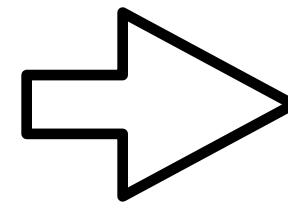


2021 -	12		7	2		46			38	8	10	16
2022 -	14	7	9	5	13	21			42	11	7	10
2023 -	15	4	10	2		49	1		25	11	9	12
2024 -	8	4	16		6	36		10	15	6	11	5

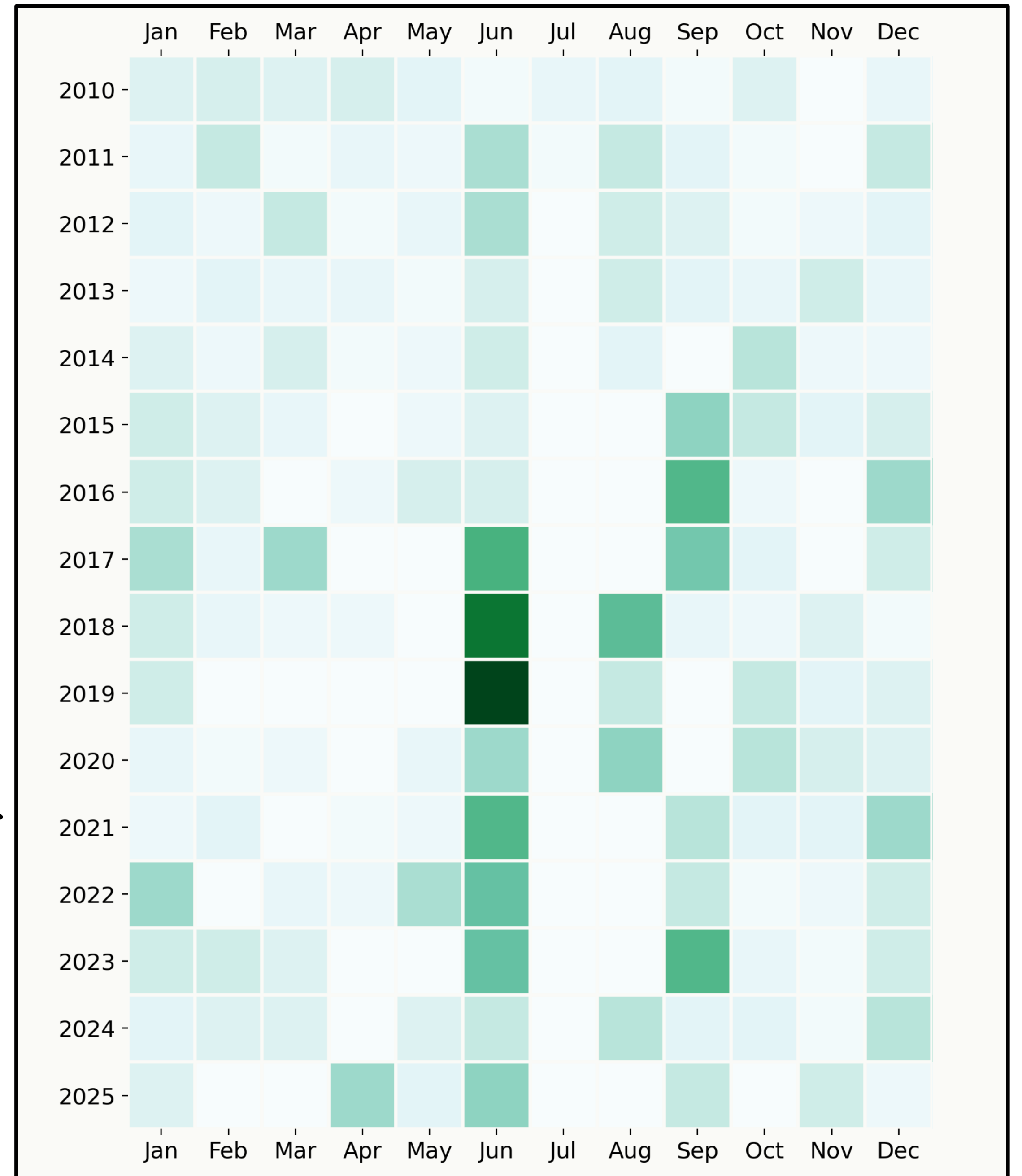
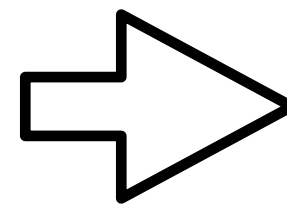
When are petitions granted?

2010-2025 (PFRs only)

2015: Court begins clearing its docket by end of June



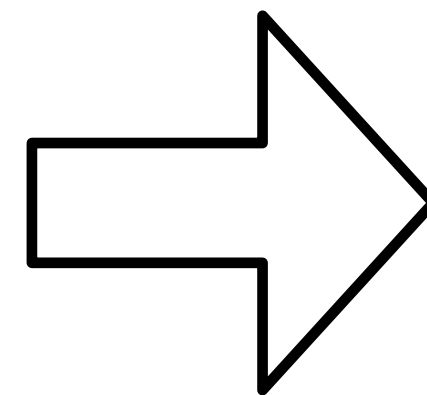
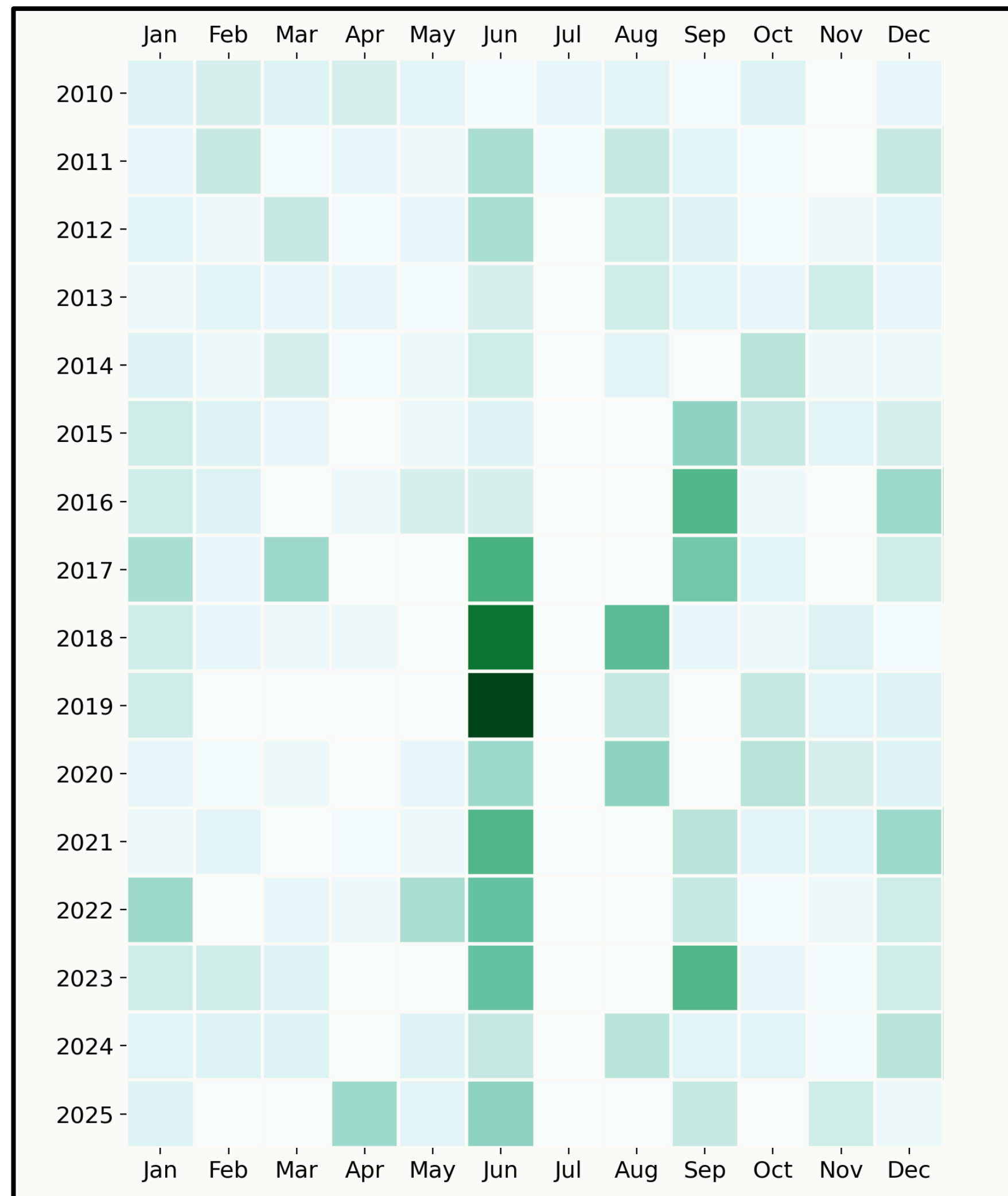
2020: Court starts reducing how many cases get BOM ordered



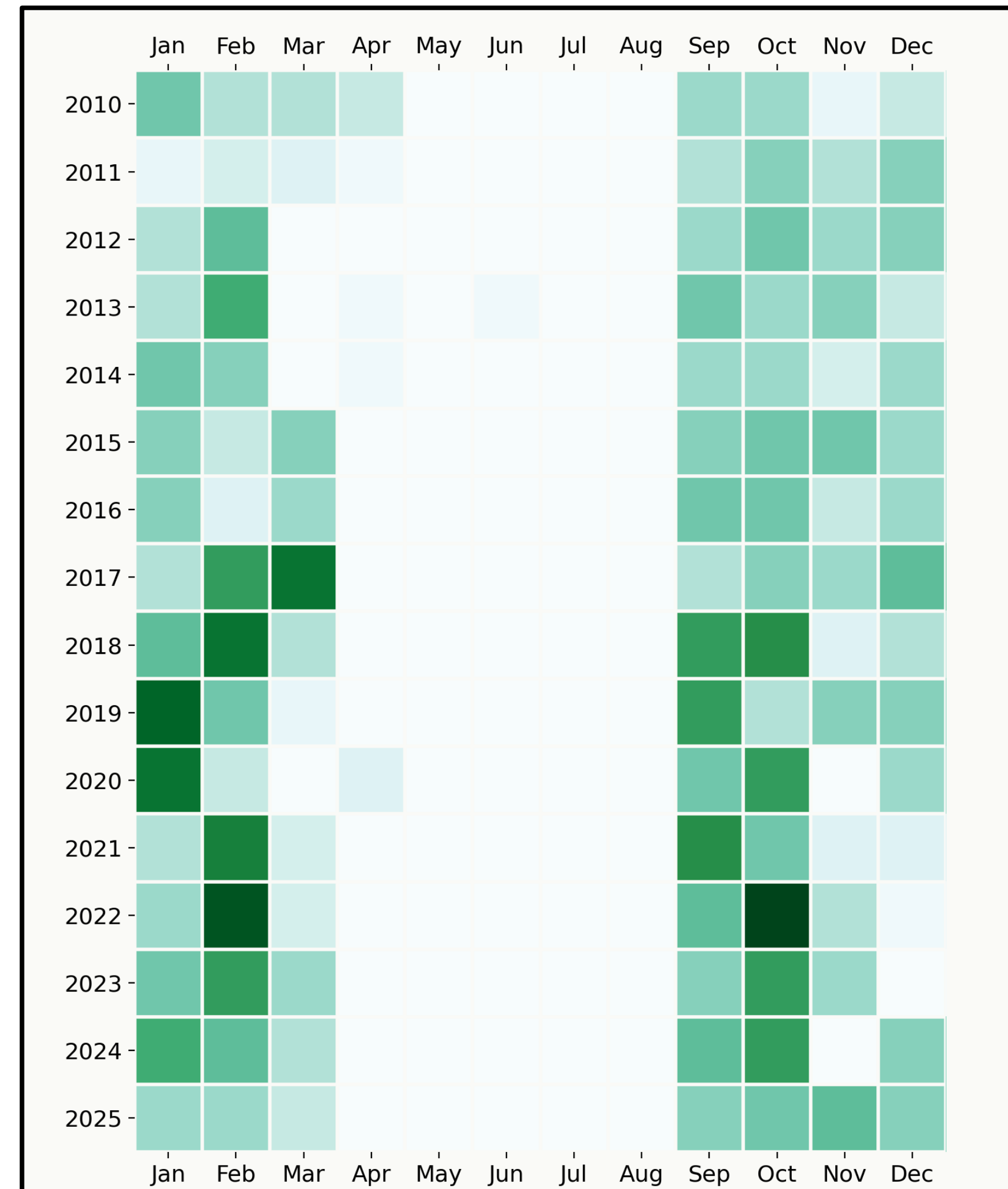
4. The time between a petition grant and oral argument has been tightly linked to the argument calendar

From petition grants to oral argument sittings

Grants from 2010-2025

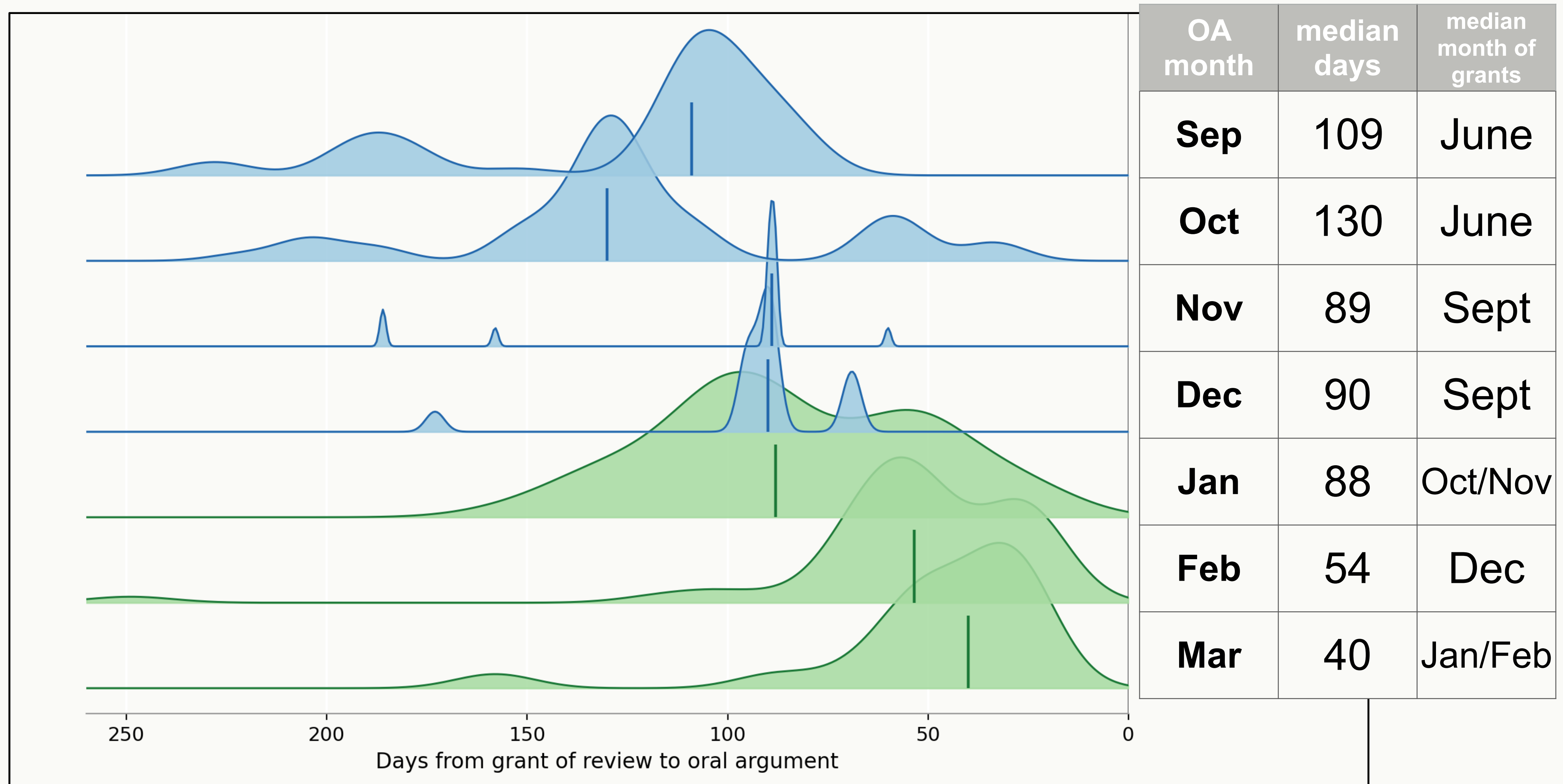


Oral Arguments from 2010-2025



From petition grants to oral argument sittings

2022-2025 (PFRs only)



From the Court's memo about the new rules

Argued Cases

- The Court may grant review, set the case for oral argument, and order briefing on the merits upon the vote of 4 Justices. It takes 5 votes to set an original proceeding requesting extraordinary relief for oral argument.
- The Court may set oral argument when it announces its decision to grant review, so it is important for attorneys to file any vacation notices as soon as possible.
- As reflected in Texas Rule of Appellate Procedure 55, a responding party now has the same amount of time to file merits briefing as the petitioner: 30 days. This change also makes briefing deadlines in the Court consistent with the deadlines in the courts of appeals.
- Before the Court hears oral argument, each case will be randomly assigned to a Justice as the presumptive author of the majority opinion, with the aim of evenly distributing cases among the Court.
- When feasible, the Court will leave sufficient time between the grant announcement and oral argument to allow each side 1 full extension if needed and to ensure that all briefing is completed at least 2 weeks in advance of oral argument.

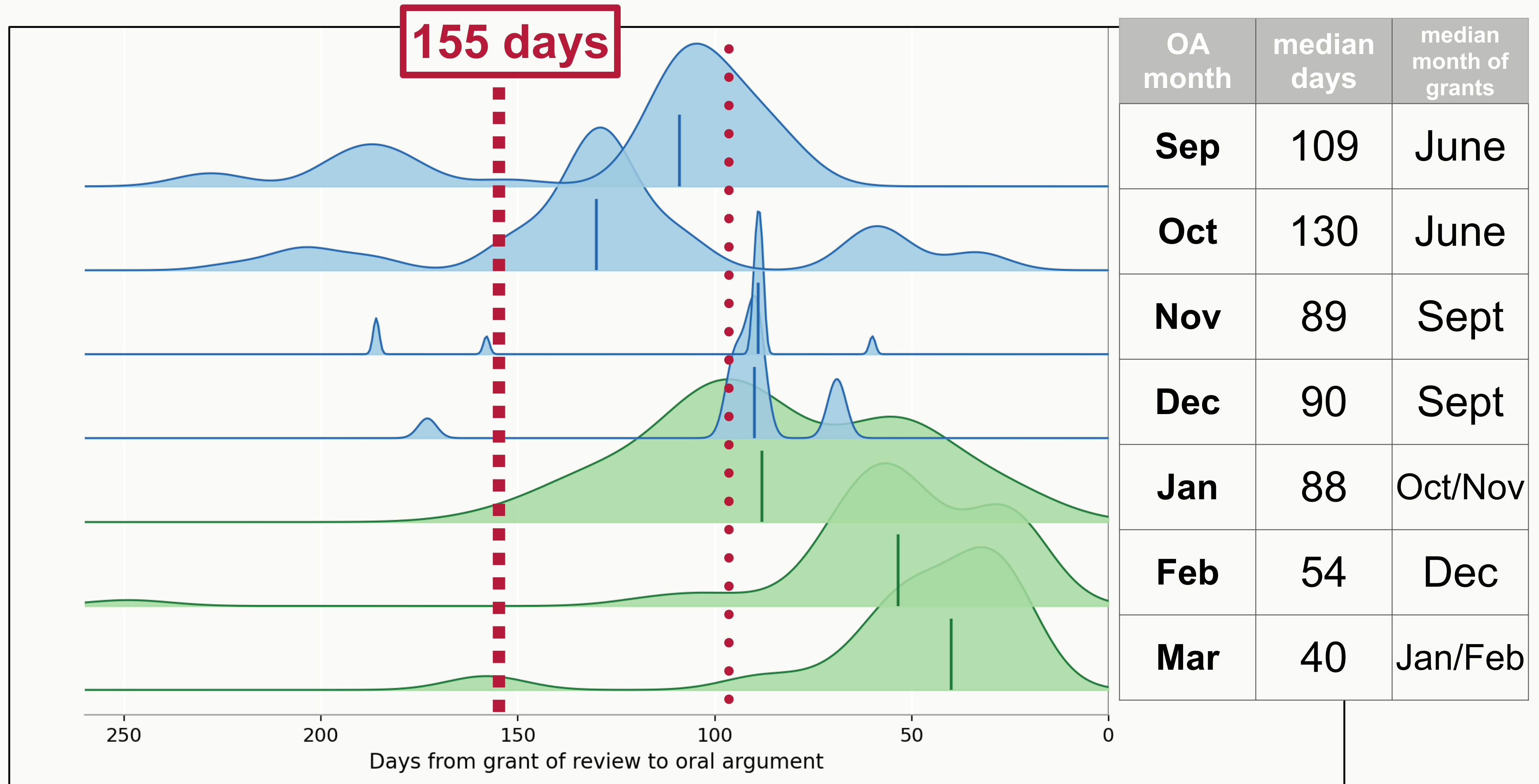
the Court's stated goal for lead time:

$$(30 + 30) + (30 + 30) + 20 + 15 = 155 \text{ days}$$

- When feasible, the Court will leave sufficient time between the grant announcement and oral argument to allow each side 1 full extension if needed and to ensure that all briefing is completed at least 2 weeks in advance of oral argument.

Let's superimpose that goal on the recent data

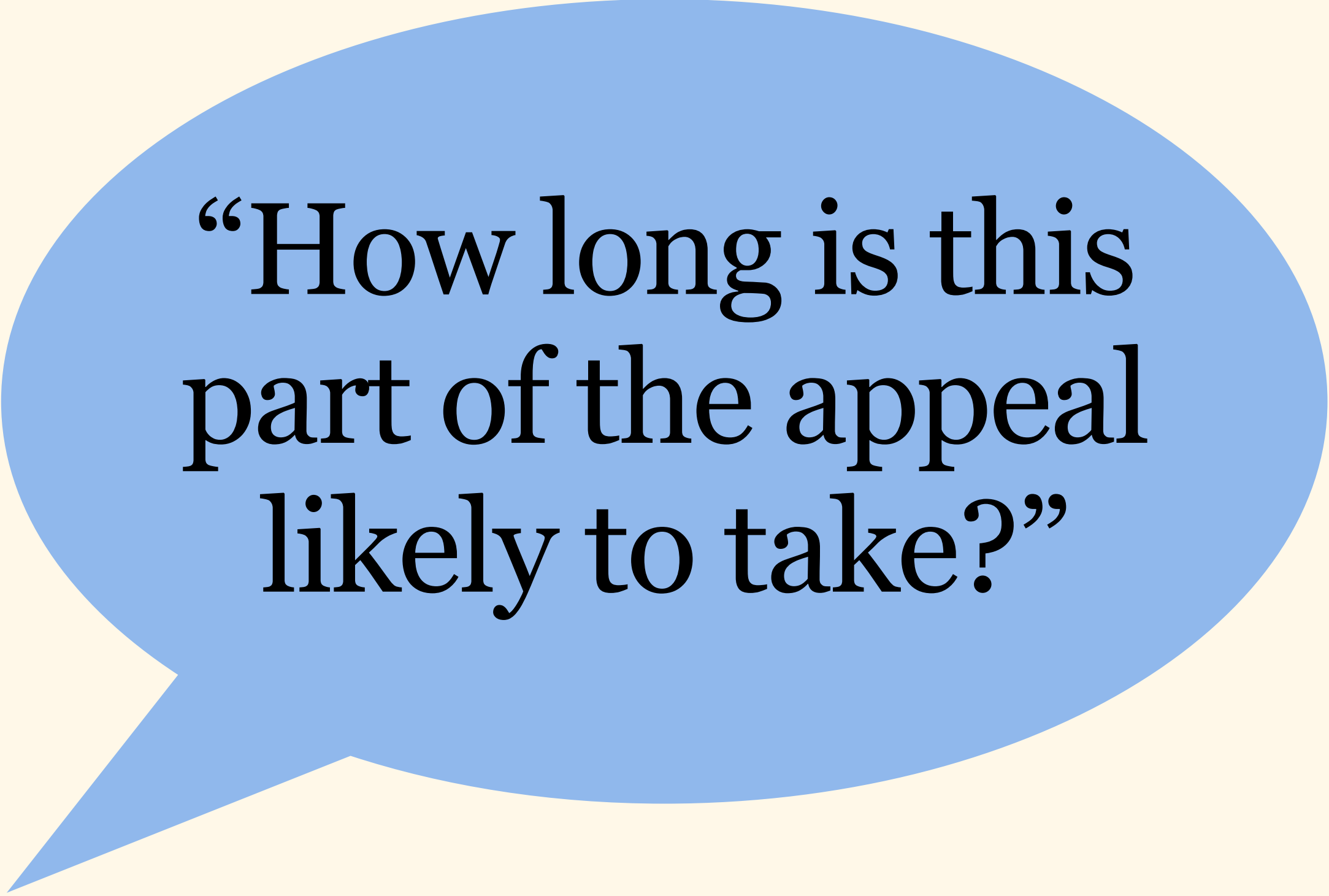
2022-2025 (PFRs only)



Looking forward:

“How long is this part of the appeal likely to take?”

“What are the odds this will eventually be reversed?”



“How long is this part of the appeal likely to take?”

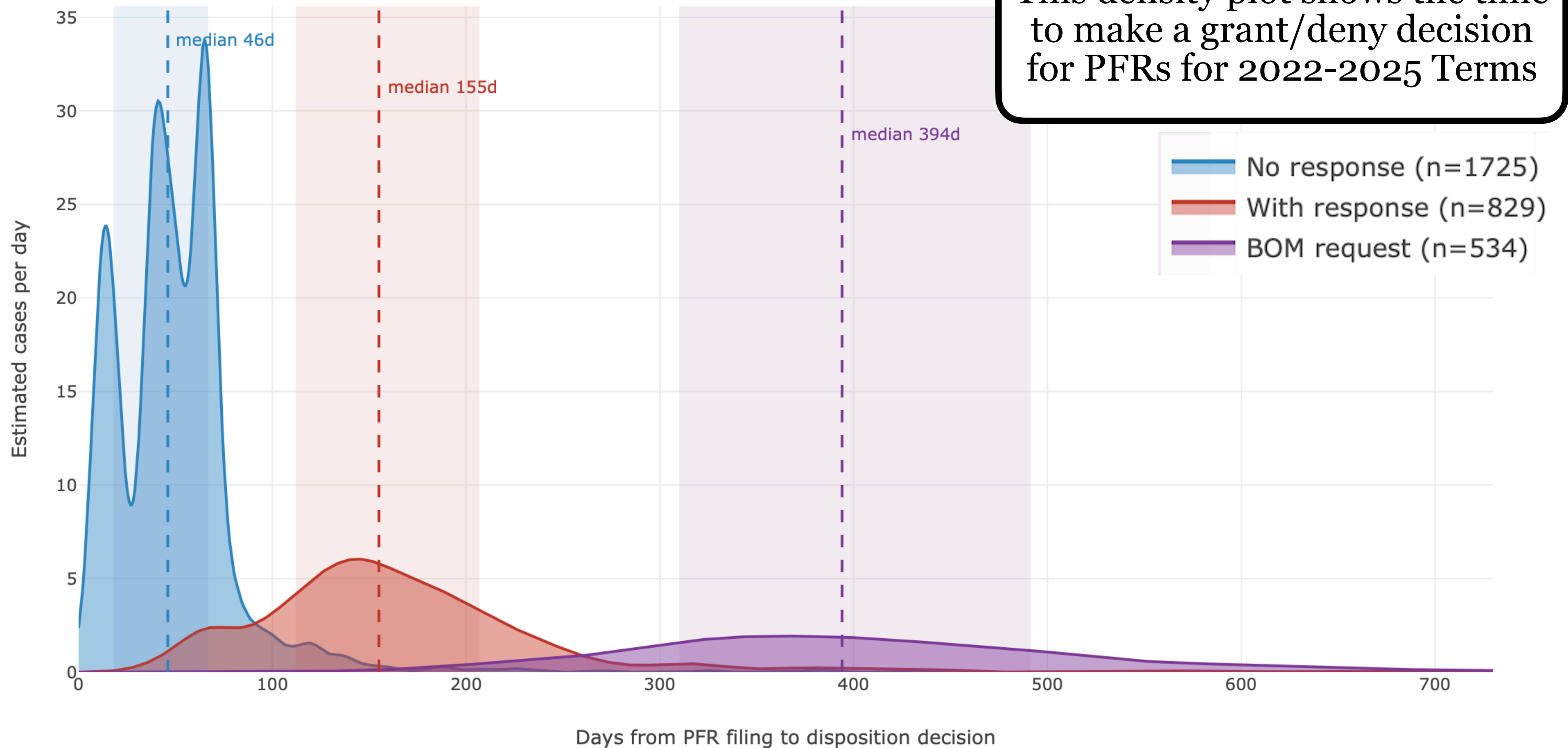
The timing of petition decisions might be *very* different under the new rules

Before 2026: More than one “average” time

	Percentage of All PFRs	Median from PFR to Disposition	Most Cases Are in this Range (20%-80%)
Petition filed; court decides to deny without a response and without requesting a response	56%	46 days	18 days - 67 days
Court denies the petition after a response, but without requesting merits briefing	27%	155 days	112 days - 207 days
Court grants or denies the petition after full briefing on the merits has been requested	17%	394 days	310 days - 491 days
	100%	46 days	

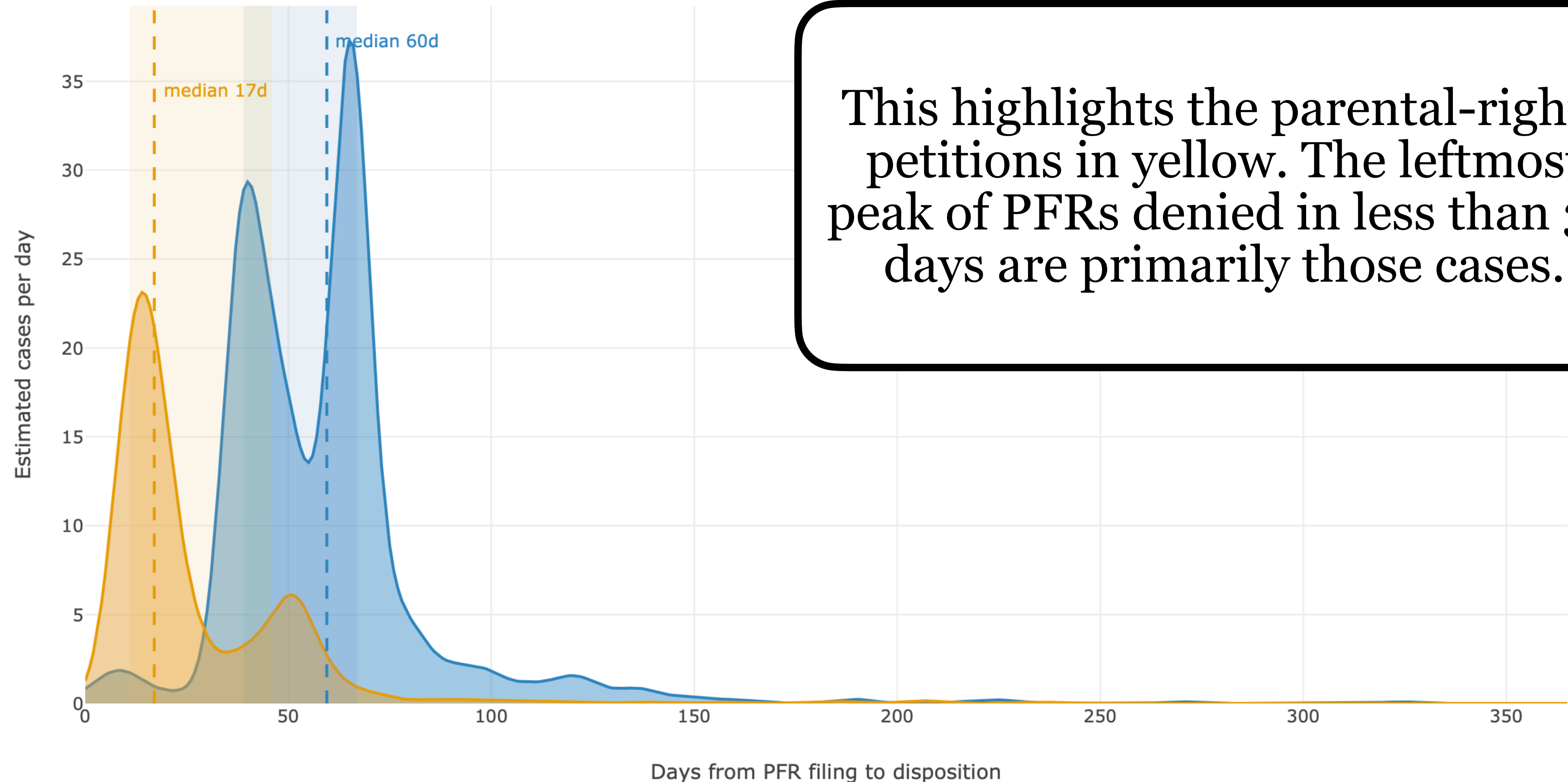
The three “average” times (old rules)

This density plot shows the time to make a grant/deny decision for PFRs for 2022-2025 Terms



The three “average” times (old rules)

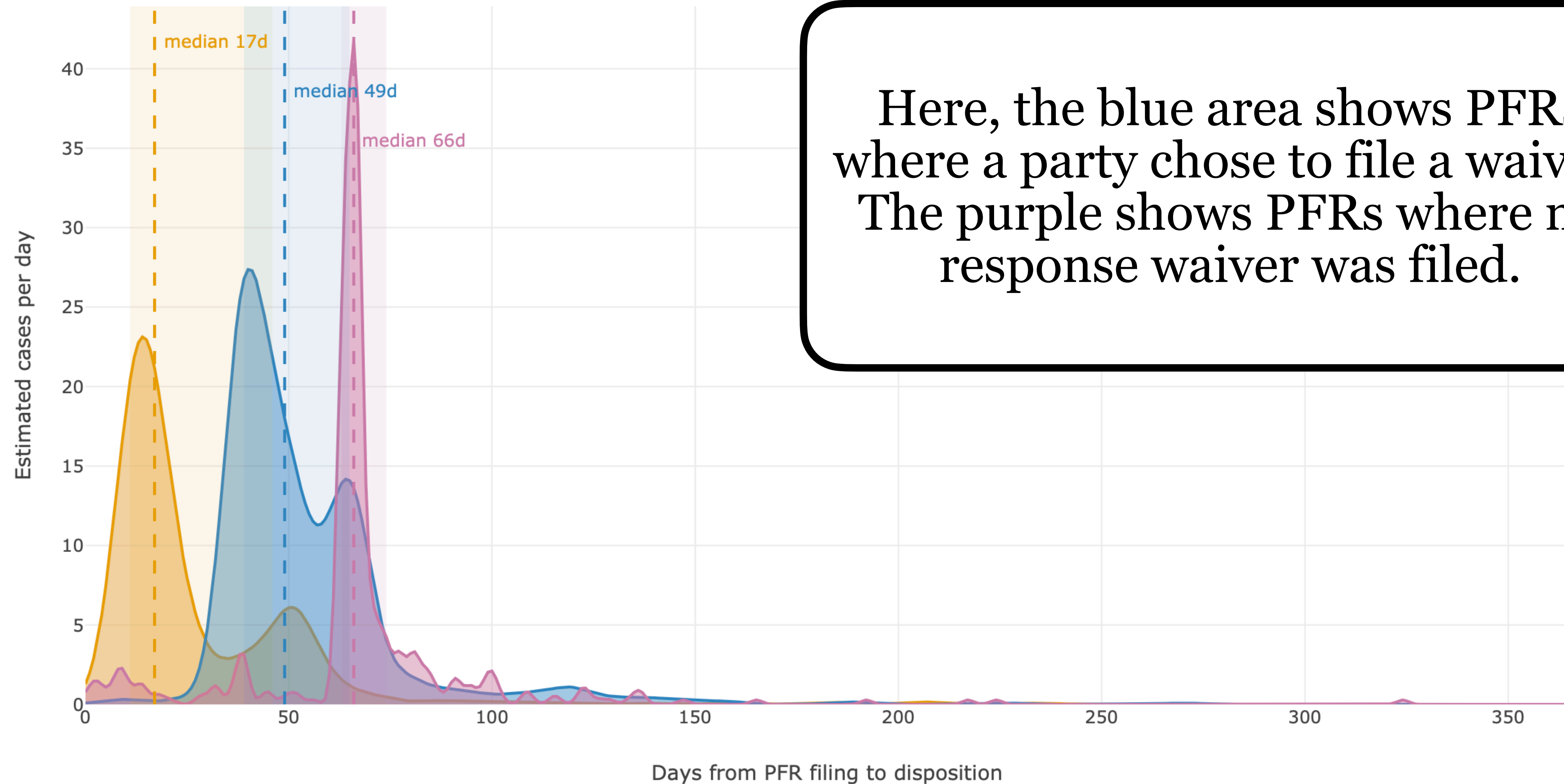
Petitions denied without a response request



This highlights the parental-rights petitions in yellow. The leftmost peak of PFRs denied in less than 30 days are primarily those cases.

The three “average” times (old rules)

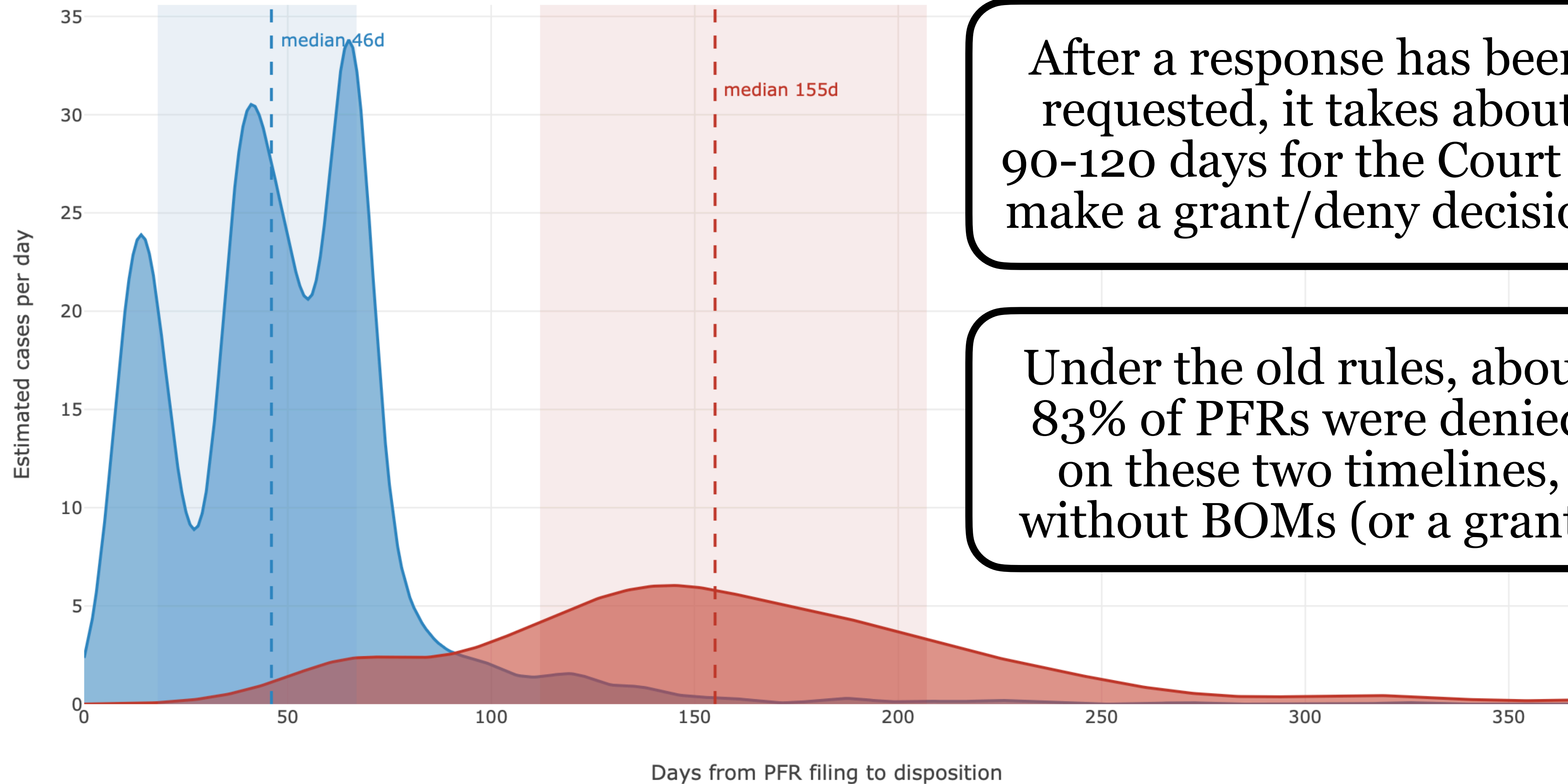
Petitions denied without a response request



Here, the blue area shows PFRs where a party chose to file a waiver. The purple shows PFRs where no response waiver was filed.

The three “average” times (old rules)

The red area shows petitions denied after a response request



After a response has been requested, it takes about 90-120 days for the Court to make a grant/deny decision

Under the old rules, about 83% of PFRs were denied on these two timelines, without BOMs (or a grant)

Going forward: What might an “average time” chart look like for petitions filed today?

Some assumptions (so far):

- When individual Justices review petitions, they will vote to order a response for a similar number as they do now.
- The Court will (eventually) grant a sufficient number of PFRs to keep its oral argument calendar full and to end up with a similar number of opinions as today.
- Some of these new petitions will be decided as Per Curiam opinions (with or without merits briefing)

There might be four (not three) categories

	Percentage of All PFRs	Median from PFR to Disposition	Why?
Petition filed; court denies without requesting a response	~56% <i>(same as before)</i>		
Court denies the petition after a response is filed	< ~32% <i>= (100 - 56 - 12)</i>		
Court requests merits briefs but ultimately denies review	0% so far		
Court grants the petition, after a response <u>or</u> merits briefs	~12% likely		
	100%		

The first two rows (PFR denials without BOM) will be greatly sped up by some new Clerk's Office procedures

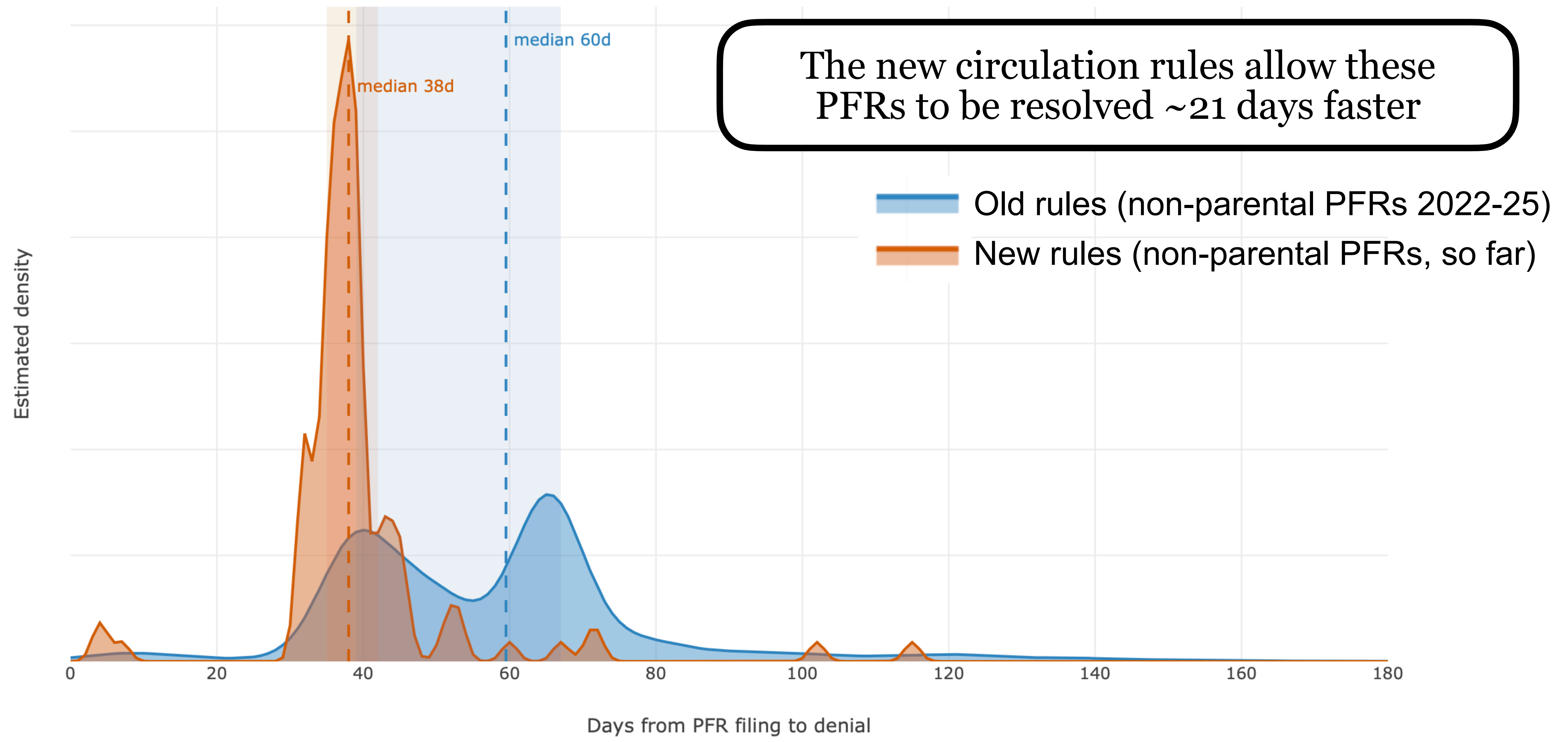
The Court's Initial Review

- The Court Clerk and Court Administrator will no longer wait for the filing of a response or waiver or for the response deadline to pass before circulating a petition for review for the Court's initial review. This change in practice should help reduce the overall time from filing to disposition.
- Each Justice reviews the petition and casts an initial vote within four weeks of circulation. A Justice may vote to deny relief, to request a response, or to discuss the case at conference, among other options.
- A petition for review receiving no votes other than to deny by the initial vote deadline will be denied on the next orders list, which issues on Friday.
- If any Justice votes other than to deny, the case will be placed on the Court's agenda for discussion at the next conference, except that a petition receiving a vote for a response will either: (a) if no response is filed, be placed on the Court's conference agenda after the deadline for filing the response has passed; or (b) if a response is filed, be placed on the Court's conference agenda after the reply is received or the deadline for filing the reply has passed, whichever is later.
- A vote for a response triggers the Supreme Court Clerk to immediately convey the Court's order that a response be filed. The Clerk will no longer wait until the initial vote deadline to pass before issuing the order for a response. Again, this change in practice should help reduce the overall time from filing to disposition.

The Court Clerk and Court Administrator circulate the petition to the Court on the Tuesday following its filing. The Court Clerk and Court Administrator will no longer wait for the filing of a response or waiver or for the response deadline to pass before circulating a petition for review for the Court's initial review. This change in practice should help reduce the overall time from filing to disposition.

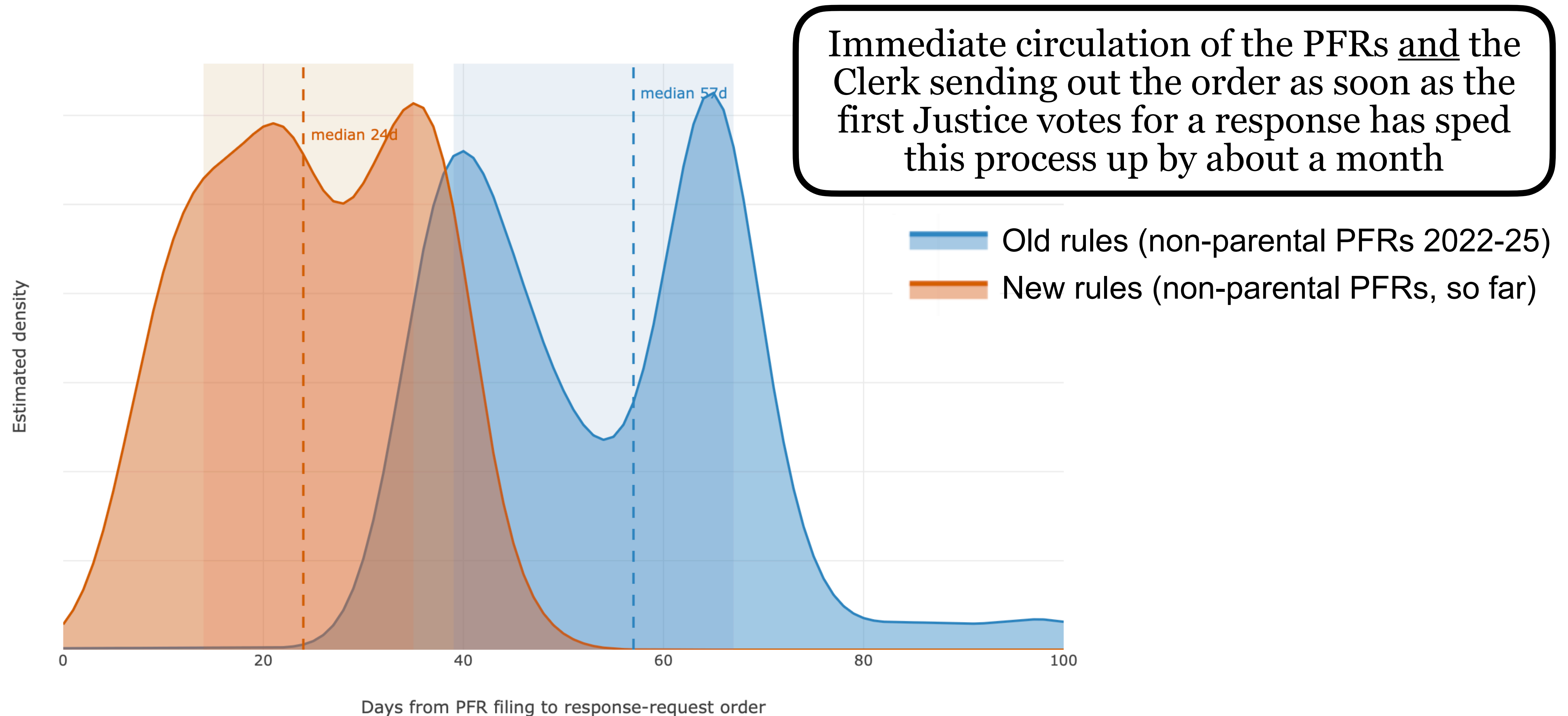
- A vote for a response triggers the Supreme Court Clerk to immediately convey the Court's order that a response be filed. The Clerk will no longer wait until the initial vote deadline to pass before issuing the order for a response. Again, this change in practice should help reduce the overall time from filing to disposition.

Removing the step of a “waiver” speeds up the denials without a response



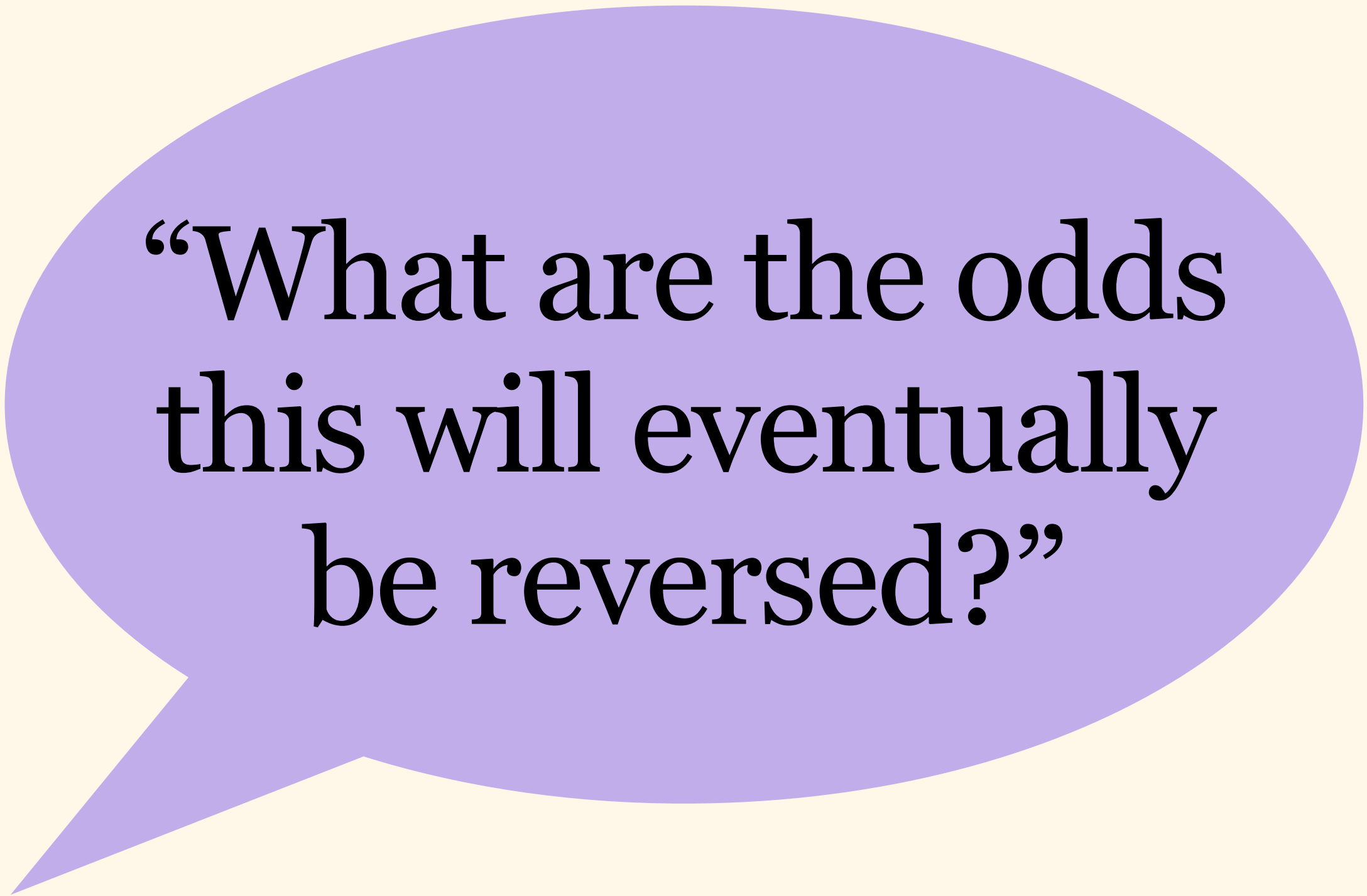
The order of a response is about a month faster

Days between the PFR being filed and the response being ordered



After 2026: A speculative “average time” chart

	Percentage of All PFRs	Median from PFR to Disposition	Why?
Petition filed; court denies without requesting a response	~56% <i>(same as before)</i>	~21 days faster	Not waiting on a waiver has already sped things up
Court denies the petition after a response is filed	< ~32% <i>= (100 - 56 - 12)</i>	~30 days faster	Faster response orders should lower the median time, but without BOMs, there may be a long tail of PFRs studied before an eventual denial
Court requests merits briefs but ultimately denies review	0% so far	TBD	ಽ_(ツ)_/
Court grants the petition, after a response <u>or</u> merits briefs	~12% likely	TBD - but likely ~180 days faster	With BOMs, the grant decision was made around 1 year. That should be much faster.
	100%		



“What are the odds
this will eventually
be reversed?”

The overall grant rate is likely to stay close to historic norms, *unless* the Court wants to hold more (or fewer) arguments

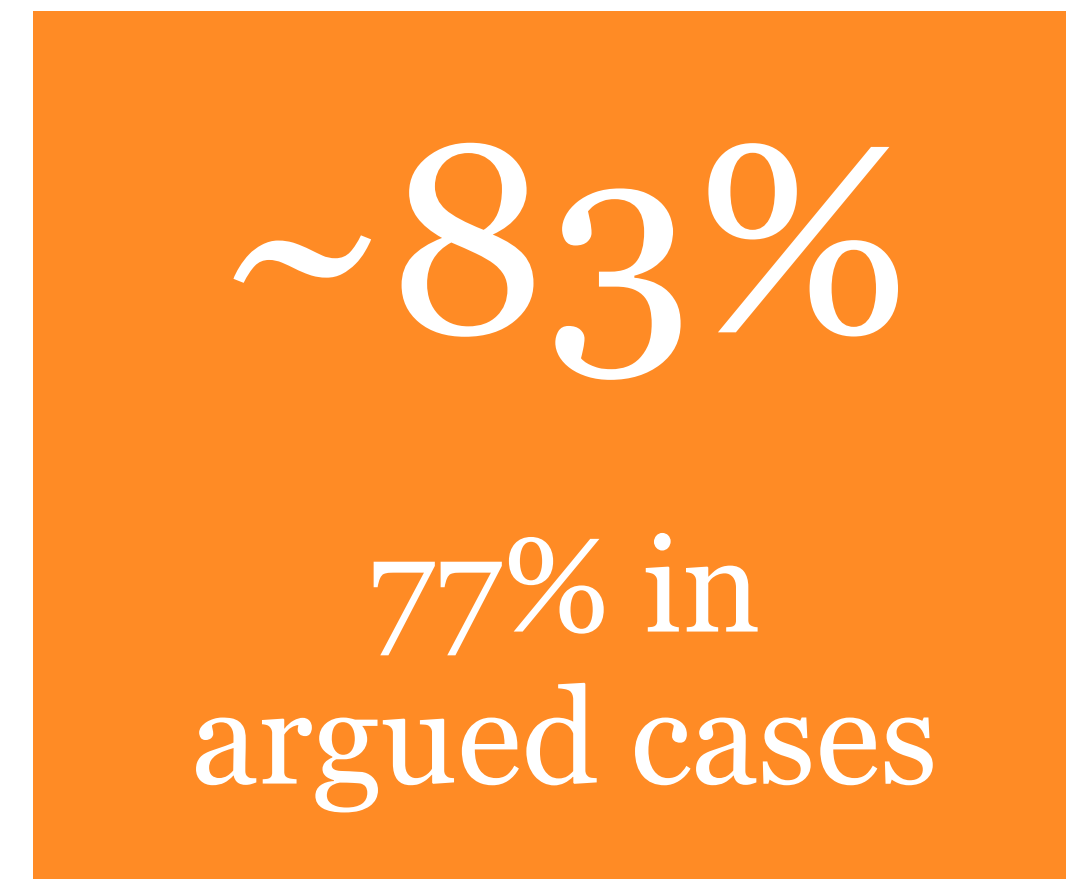
Overall Grant Rate & Reversal Rate for FY2022-FY2025

of petitions filed



are granted

of petitions granted



are reversed

Rehearing Success Rate

For FY2022-FY2025

rehearing of
petition denial



were granted

rehearing after
merits decision



were granted

source: OCA “Supreme Court Activity” Reports

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