



HB 2355 REPORT TO THE MULTNOMAH COUNTY LPSCC

EFFECTS OF CHANGES TO POSSESSION OF CONTROLLED SUBSTANCES (PCS) LAWS AND POLICY

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Multnomah County District Attorney

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Criminal Justice Commission

8 October 2018

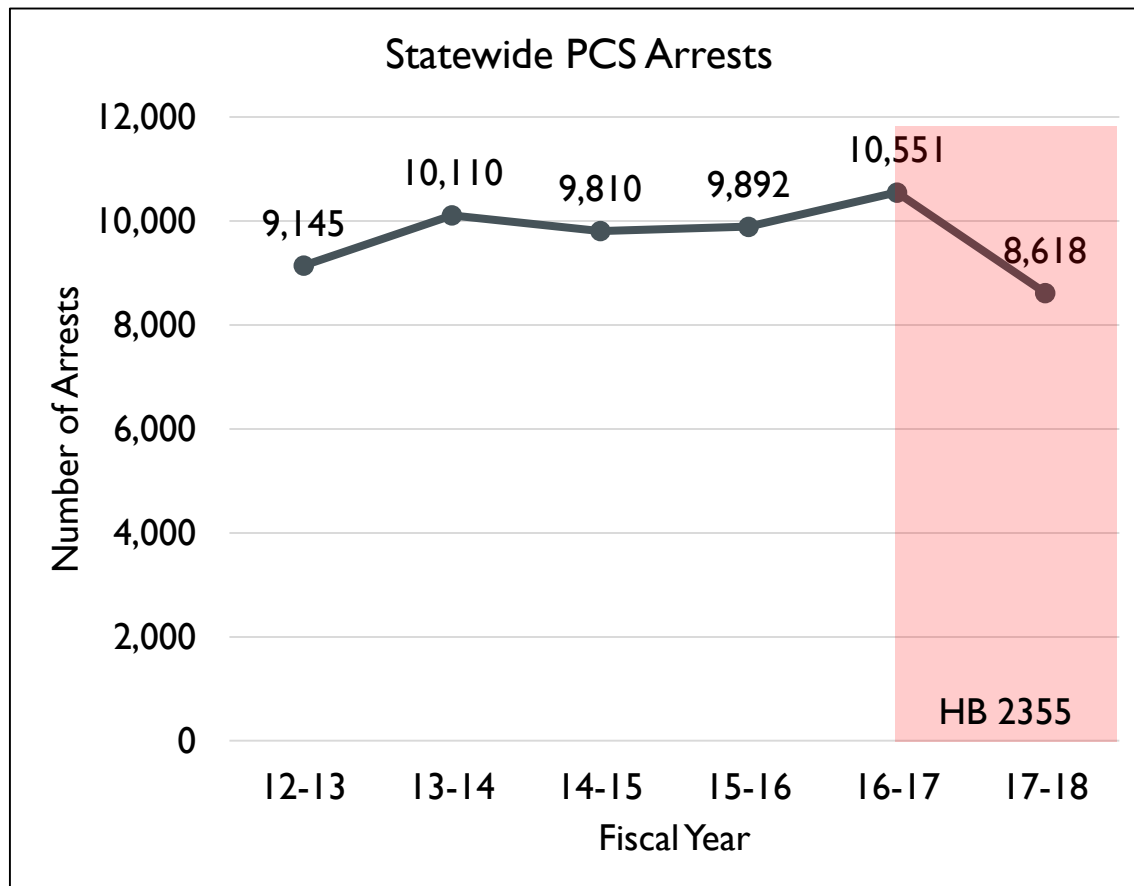
HB 2355

SUMMARY OF LEGISLATIVE CHANGES: PASSED JULY 2017 AND EFFECTIVE AUGUST 2017

- Generally, possession of Schedule I and Schedule II controlled substances reclassified as Class A Misdemeanors
 - Previously, possession of Schedule I narcotics was a Class B Felony
 - Previously, possession of Schedule II narcotics was a Class C Felony
- Exceptions to Reclassification Rule: if any of the following apply, PCS remains a felony
 - The individual has a prior felony conviction
 - The individual has two or more convictions for possession of a usable quantity of a controlled substance
 - The possession is classified as a commercial drug offense under ORS 475.900(1)(b)
 - The individual possess an amount of narcotics above a drug specific threshold

GENERAL STATEWIDE TRENDS

PCS ARREST RATES



- PCS arrests were relatively steady, if slightly increasing, prior to HB 2355
 - Peak number of arrests occurred in FY16-17
 - Following HB 2355, the arrest rate fell by 1,933 arrests (19.4% reduction)

COUNTS OF ARRESTS AND FELONY CONVICTIONS

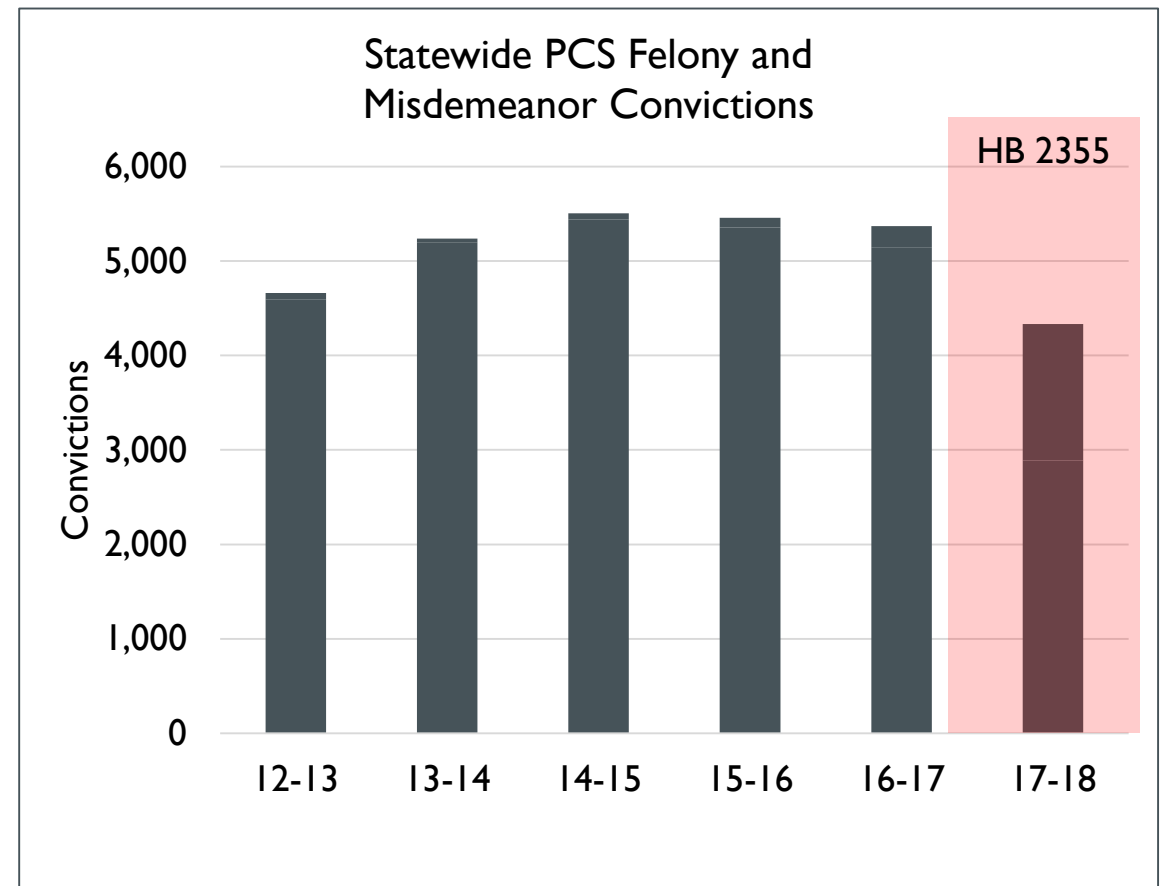
MULTNOMAH COUNTY VERSUS OTHER OREGON COUNTIES

Fiscal Year	Statewide (minus Multnomah)				Multnomah County			
	Arrests		Felony Convictions		Arrests		Felony Convictions	
	Count	Rate	Count	Rate	Count	Rate	Count	Rate
2012-2013	7,043	181	3873	99	2,102	277	716	94
2013-2014	7,714	197	4444	113	2,396	313	748	98
2014-2015	7,901	199	4821	122	1,909	246	620	80
2015-2016	8,401	209	4799	119	1,491	187	556	70
2016-2017	9,149	224	4805	118	1,402	175	340	42
2017-2018	7,373	178	2845	69	1,245	154	44	5

GENERAL STATEWIDE TRENDS

PCS FELONY AND MISDEMEANOR CONVICTIONS

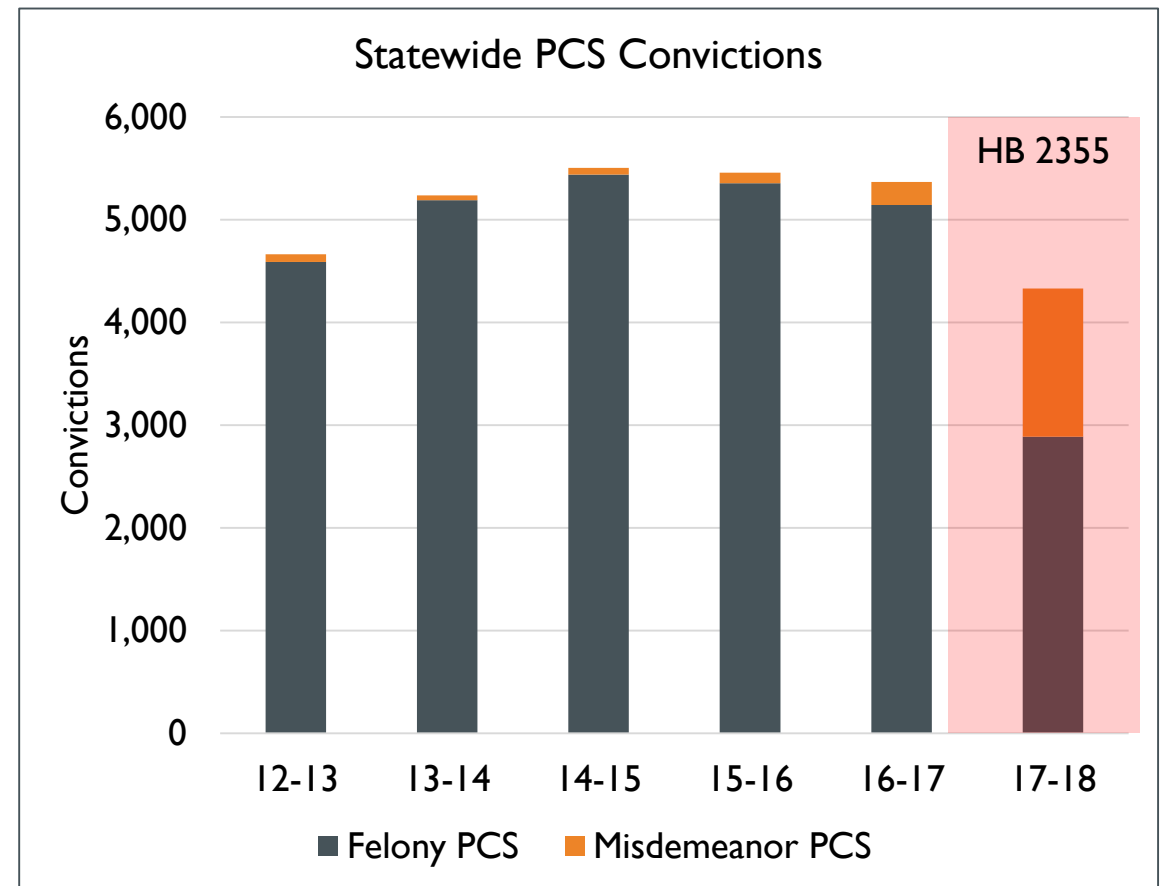
- Statewide, total PCS misdemeanor and felony convictions leveled off in FY13-14 and FY14-15 before falling in recent years.
- The largest decrease in overall convictions occurred in FY17-18 (reduced by 1,037, or 19%)



GENERAL STATEWIDE TRENDS

PCS FELONY AND MISDEMEANOR CONVICTIONS

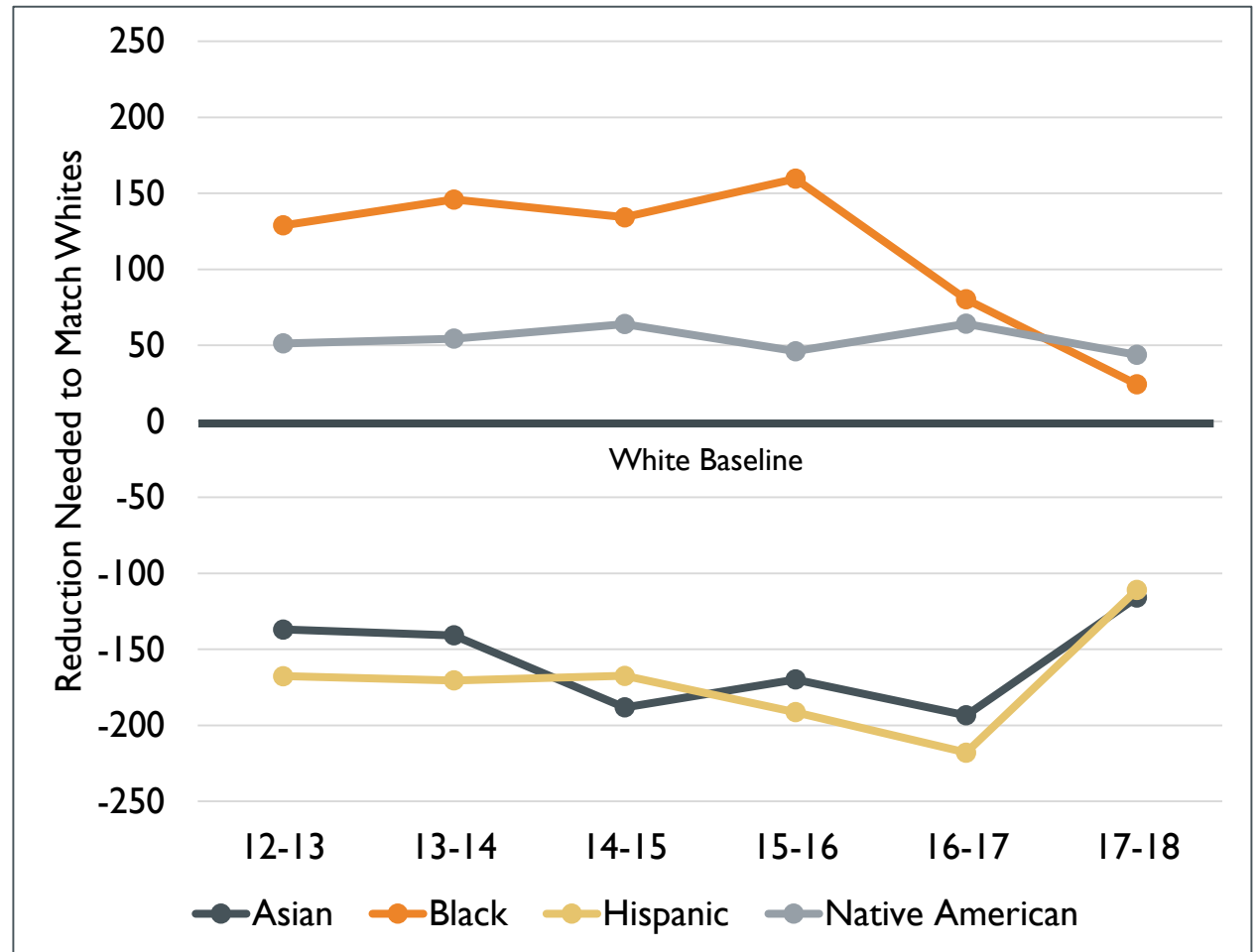
- Statewide, total PCS convictions leveled off in FY13-14 and FY14-15 before falling in recent years.
- The largest decrease in overall convictions occurred in FY17-18 (reduced by 1,037, or 19%)
- Felony PCS Convictions:
 - Modest reductions in FY15-16 and FY16-17
 - Decline of $\approx 2,200$ felony convictions in FY17-18 (44% reduction)
- Misdemeanor PCS convictions:
 - Reduction in felonies is due in part to growing number of misdemeanor convictions
 - Misdemeanors increased from 224 to 1,443 in FY17-18



RACIAL DISPARITIES

RDR MEASURES FOR STATEWIDE FELONY PCS CONVICTIONS BY RACE

- Racial disparities fell significantly for felony PCS convictions—all racial groups trended toward the White baseline.
- Asian RDR values fell from -193 to -116.
- Black RDR values fell significantly:
 - FY15-16: RDR Value of 160
 - FY16-17: RDR Value of 80 (50% reduction)
 - FY17-18: RDR Value of 24 (70% reduction)
- Hispanic RDR values fell from -218 to -111.
- While relatively steady overall, Native American RDR values fell from 64 to 44.



OTHER EFFECTS

Recidivism

Changes in conviction rates and the seriousness of PCS punishment could impact recidivism rates.

At present, the CJC cannot examine recidivism rates according to the Oregon definition of recidivism (ORS 423.557).

Drug Courts

Reductions in PCS convictions could imperil drug courts by leading to fewer drug court admissions.

The CJC has yet to see any evidence of reduced drug court enrollments. Reduced enrollments, furthermore, may be positive if the focus shifts to primarily high-risk/high need populations.

Drug Use

Reduced penalties for PCS could lead to increased drug use due to a reduced deterrent effect.

It is too early to examine this hypothesis, as state specific drug use surveys have yet to be fielded that could measure changes attributable to HB 2355.

A CLOSER LOOK AT MULTNOMAH COUNTY: TREATMENT FIRST PROGRAM

- Treatment First Program began April 3, 2017 and applies to all issued PCS cases
- Tier 1 – Reduced/charged at issuing as a misdemeanor (about 90%)
- Tier 2 – Issued as a felony (CDO/SQ)
- Opportunity to be assessed using the LS/CMI (Level of Service/Case Management Inventory), TCU (Texas Christian University) Drug Screen and/or the WRNA (Women’s Risk Need Assessment) before case disposition
- Tailored supervision and treatment to the individual based on detailed assessment(s) of risk and needs (dosage)
- HR/HN- STOP Court participants
- Opportunity for dismissal or reduction

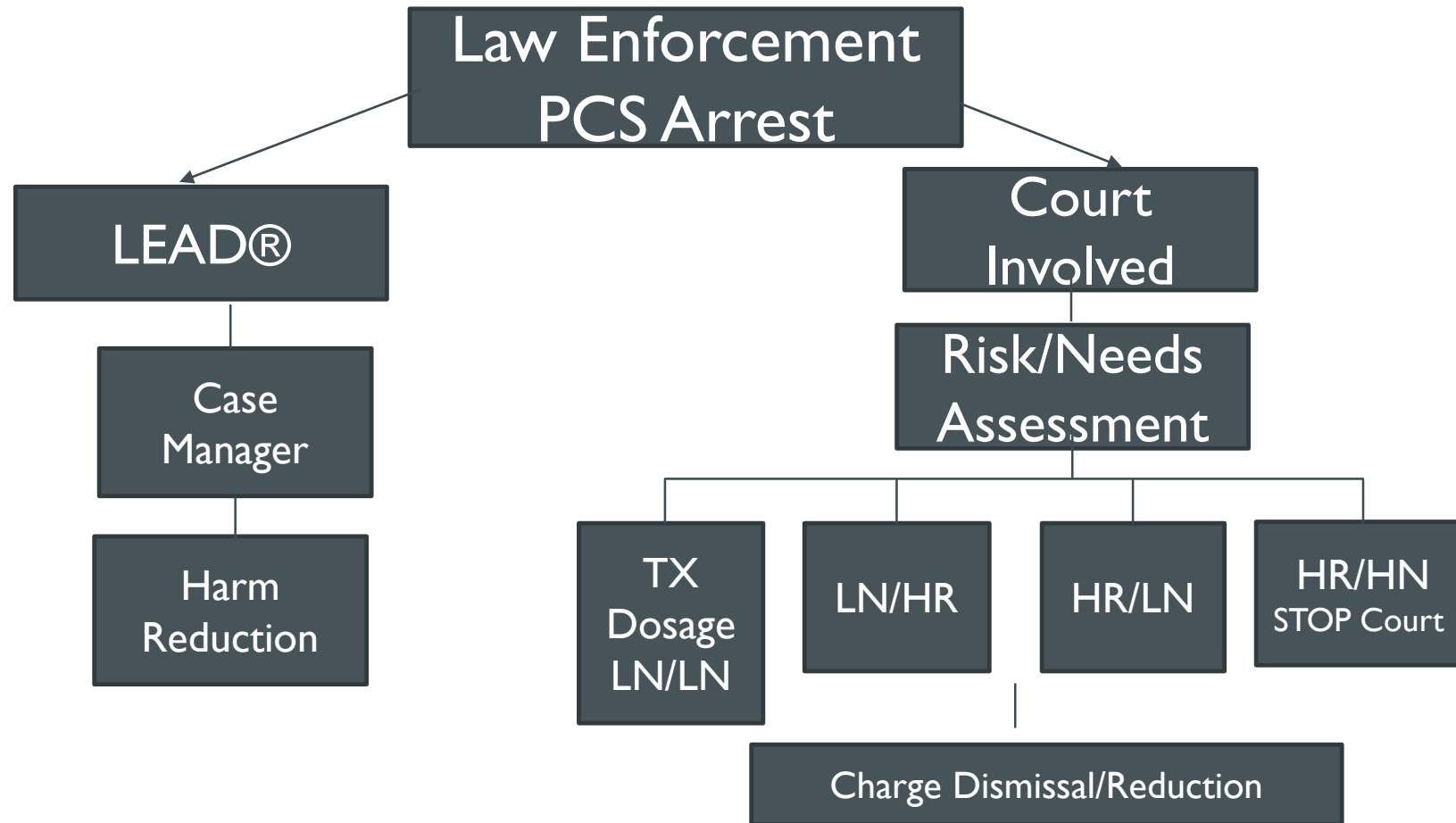
TREATMENT FIRST PROGRAM: MISSION & PURPOSE

- “We are further aware of the fact that a very significant disproportionate number of persons of color are being arrested and referred to, and inserted into, the criminal justice system for these offenses. We endeavor to reduce the negative impact of criminal justice involvement and its associated collateral consequences and embrace a “treatment first” philosophy.”

TREATMENT FIRST PROGRAM: MULTNOMAH COUNTY

- Some policy decisions that are different than the state law.
- Tier I Offenses: “...all felony Possession of Controlled Substance offenses will be immediately reduced to misdemeanor offenses...” (about 90%).
 - Individuals are not disqualified from the Treatment First Program by virtue of a prior felony conviction.
 - Individual is eligible for Treatment First Program unless they possess a “substantial quantity” of a controlled substance (significantly higher quantity than the state statute threshold).

TREATMENT FIRST PROGRAM AND LEAD®



TREATMENT FIRST PROGRAM: RISK & NEEDS MATRIX

- Risk & Needs Matrix
- LS/CMI Assessment Tool; TCU Drug Screen and/or WRNA
- HR/HN – STOP Court
 - Accountability/Treatment & Habilitation
- HN/LR
 - Treatment & Habilitation
- HR/LN
 - Accountability & Habilitation
- LR/LN
 - Prevention

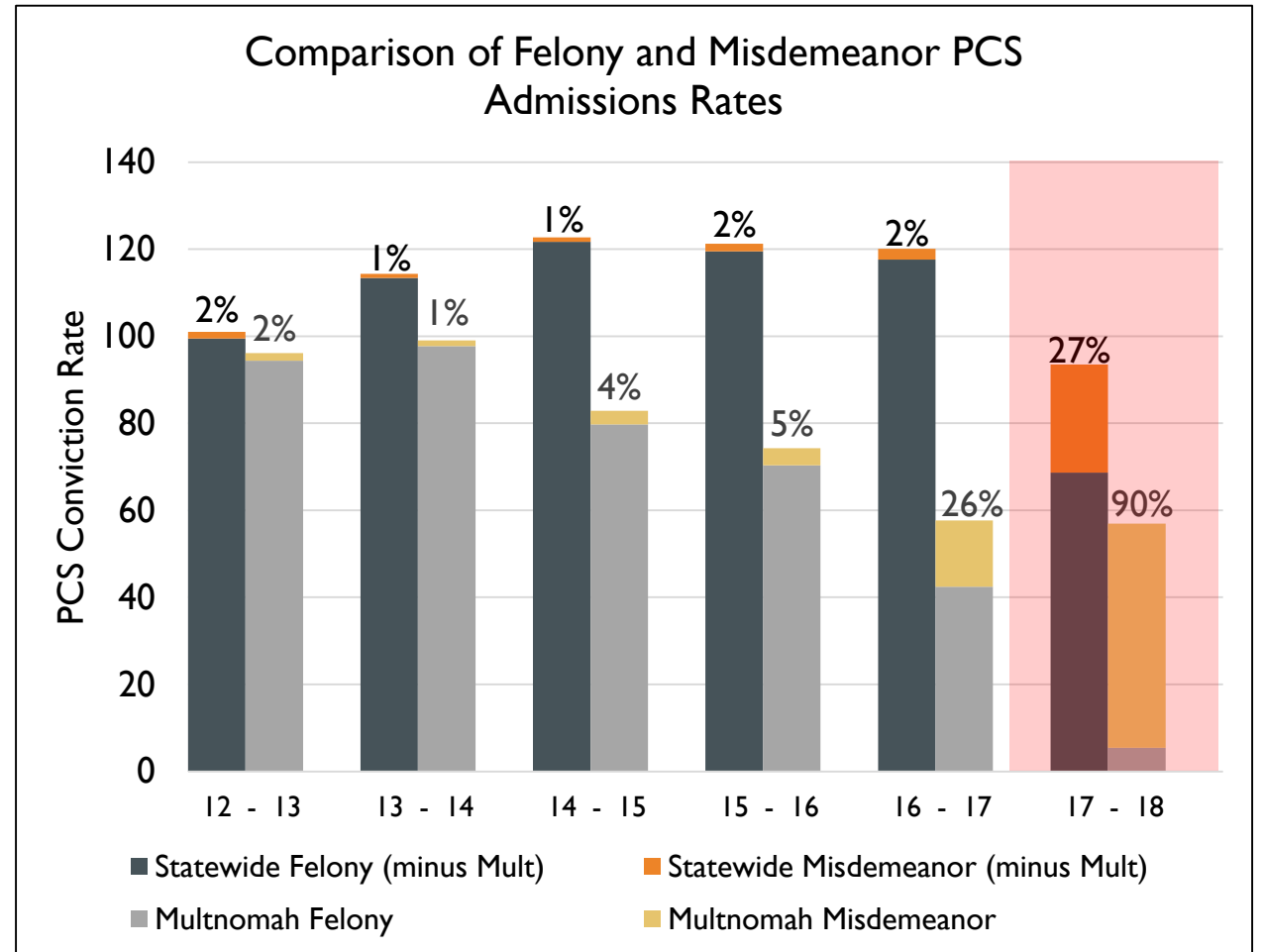
TREATMENT FIRST PROGRAM: QUADRANT PLACEMENT MODEL — AUGUST 1, 2018 DATA

	High Risk	Low Risk
High Needs	HR/HN 636 (1,268) 50%	LR/HN 122 (1,268) 10%
Low Needs	HR/LN 285 (1,268) 22%	LR/LN 225 (1,268) 18%

DETAILED TRENDS: STATEWIDE AND MULTNOMAH COUNTY

MISDEMEANOR CONVICTIONS

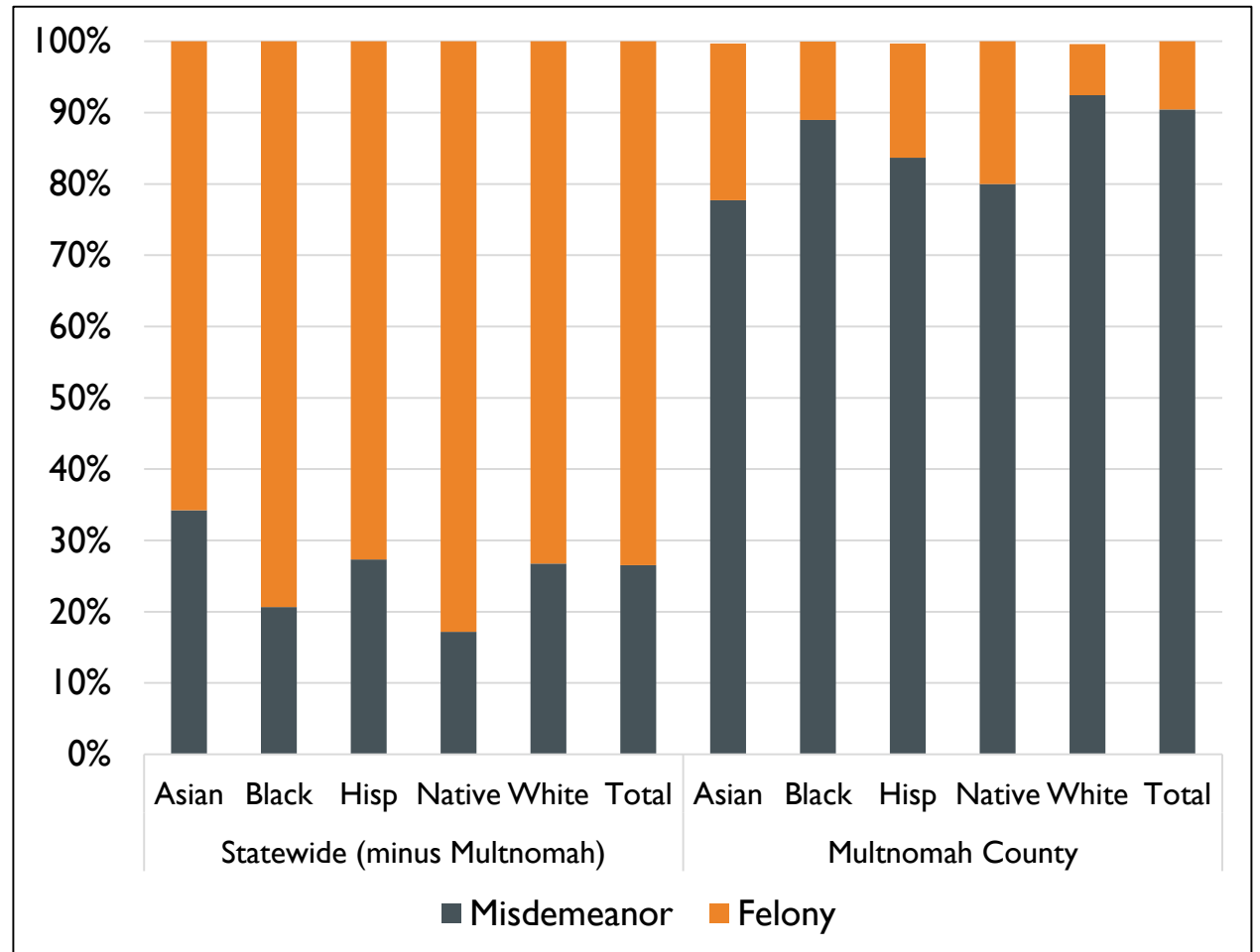
- Overall Conviction Trends:
 - Outside Multnomah, total PCS conviction rates fell in FY17-18
 - In Multnomah County, total conviction rates have been falling since FY13-14
- Felony/Misdemeanor Trends:
 - Outside Multnomah, misdemeanors made up approximately 27% of all convictions in FY17-18
 - Multnomah saw much faster growth in misdemeanor PCS convictions in last two years
 - For Multnomah, total convictions nearly identical in FY16-17 and FY17-18, but complete change in felony versus misdemeanor



DETAILED TRENDS: STATEWIDE AND MULTNOMAH COUNTY

COMPARING STATEWIDE MISDEMEANOR CONVICTIONS TO MULTNOMAH COUNTY IN FY17-18

- By removing Multnomah County, however, the pattern changes.
- Statewide misdemeanor levels were around 27% in FY17-18
- In Multnomah County, 90% of PCS cases were misdemeanors
- When examined in this way, Blacks received misdemeanors less often than Whites statewide, but about equal to Whites in Multnomah County

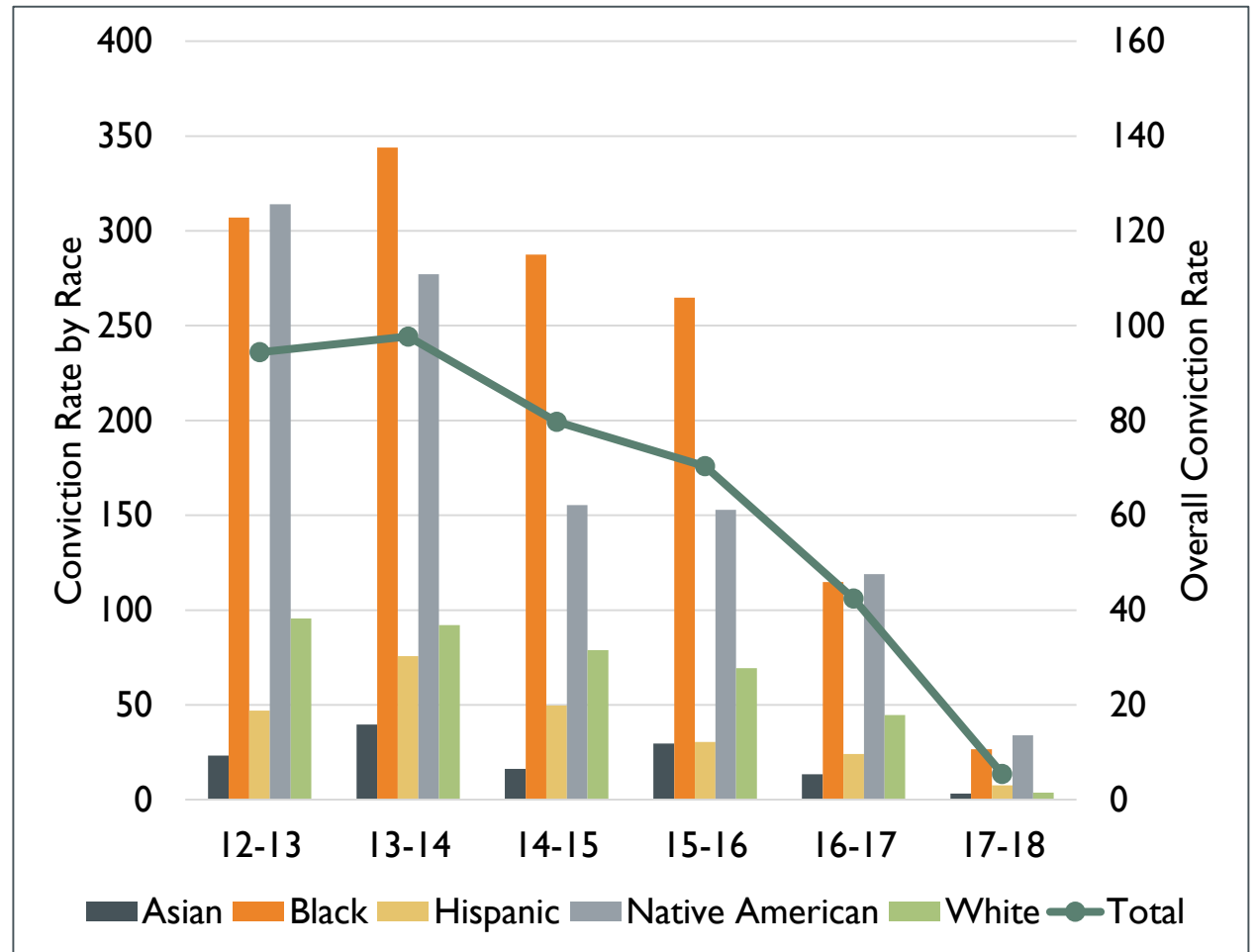


RACIAL DISPARITIES

MULTNOMAH COUNTY FELONY PCS CONVICTION RATES BY RACE

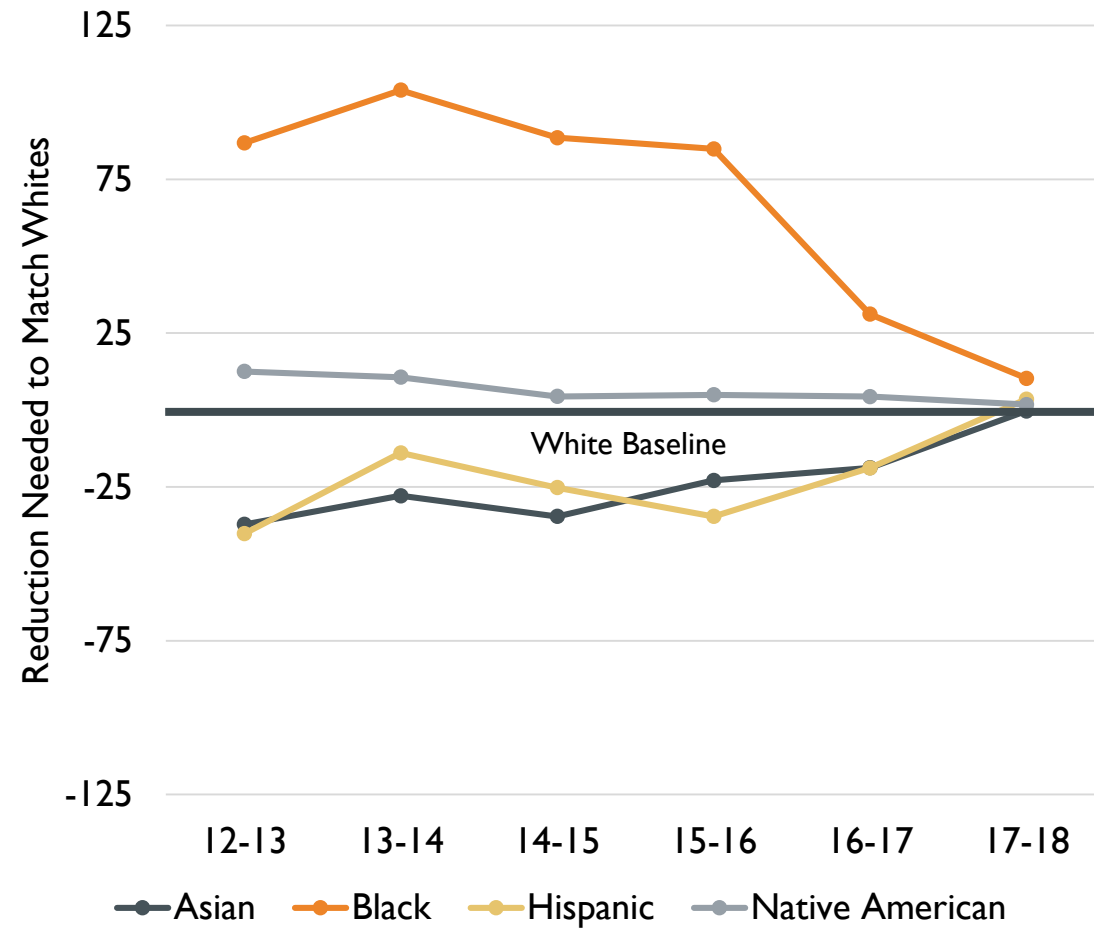
- Significant drop in felony convictions overall in Multnomah county.
- Large reductions by race accompanied the overall significant reduction in felony PCS convictions.

Racial Group	Tot. Change	Pct Chg
Asian	-6	-75%
Black	-39	-76%
Hispanic	-15	-68%
N.American	-5	-71%
White	-231	-92%
Overall	-296	-87%



RACIAL DISPARITIES: MULTNOMAH COUNTY

RDR VALUES FOR FELONY CONVICTIONS: SIGNIFICANT TREND TOWARD BASELINE



WHAT DO WE NEED TO HELP ASSURE CONTINUED SUCCESS?

- Resources for Services to help people struggling to deal with abuse and addiction
 - Treatment dollars for individuals and programs
 - Case manager dollars for individuals and programs
 - Infrastructure dollars for Courts, District Attorney's, Community Justice, Service Providers and Representation
 - Data research and analysis dollars to study, understand and then implement sound policy decisions