



The Association of Prosecuting Attorneys (APA) is a national association dedicated to supporting and enhancing the effectiveness of prosecutors in their efforts to create safer communities, ensure justice and uphold public safety.

# PROSECUTORIAL DISCRETION

ABA Standard:

“The prosecutor is an administrator of justice, a zealous advocate, and an officer of the court. *The prosecutor’s office should exercise sound discretion and independent judgment* in the performance of the prosecution function.”

# Traditional Prosecutorial Discretion

Discretionary decisions may draw on a host of factors relating to criminal justice

- Seriousness of the offense
- Dangerousness of the offender
- Strength of the evidence
- Availability of resources

# The Changing Role of the Prosecutor

- Embracing a broader role
- Engaging members of the community
- Collaborating with law enforcement
- Gathering data and intelligence
- Expanding alternatives-to-incarceration

# Prosecutorial Discretion in Criminal Justice Reform

- Prosecutor-led diversion
  - Rehabilitation
  - Recidivism reduction
  - Cost savings
  - Reduction of collateral consequences
  - Restorative justice
  - Misdemeanors and felonies

# Example from the Field: Milwaukee County

- Milwaukee operates a range of early intervention programs
  - Diversion and Deferred Prosecution
  - Day Reporting Center
  - Drug Treatment Court
  - Veterans Treatment Initiative
  - Mental Health Treatment Court
  - McArthur Post-Booking Stabilization

# Example from the Field: Milwaukee County

- Milwaukee Diversion & Deferred Prosecution Programs
  - Established in 2007, *pre-filing* and *post-filing* programs
  - Participants receive a range of individualized treatment and social services
  - Required restitution, and, possibly, attendance at a restorative justice conference

# Impact of Diversion Programs

- Pretrial diversion programs produced a considerable decrease in the percentage of cases ending in conviction
  - Results point to an especially large impact in the Milwaukee Diversion program (9% of diversion compared to 74% of comparison group convicted)
- Reduced use of jail sentence
  - Milwaukee's Diversion program (4% vs. 50%)
- Reduced the prevalence of two-year re-arrest

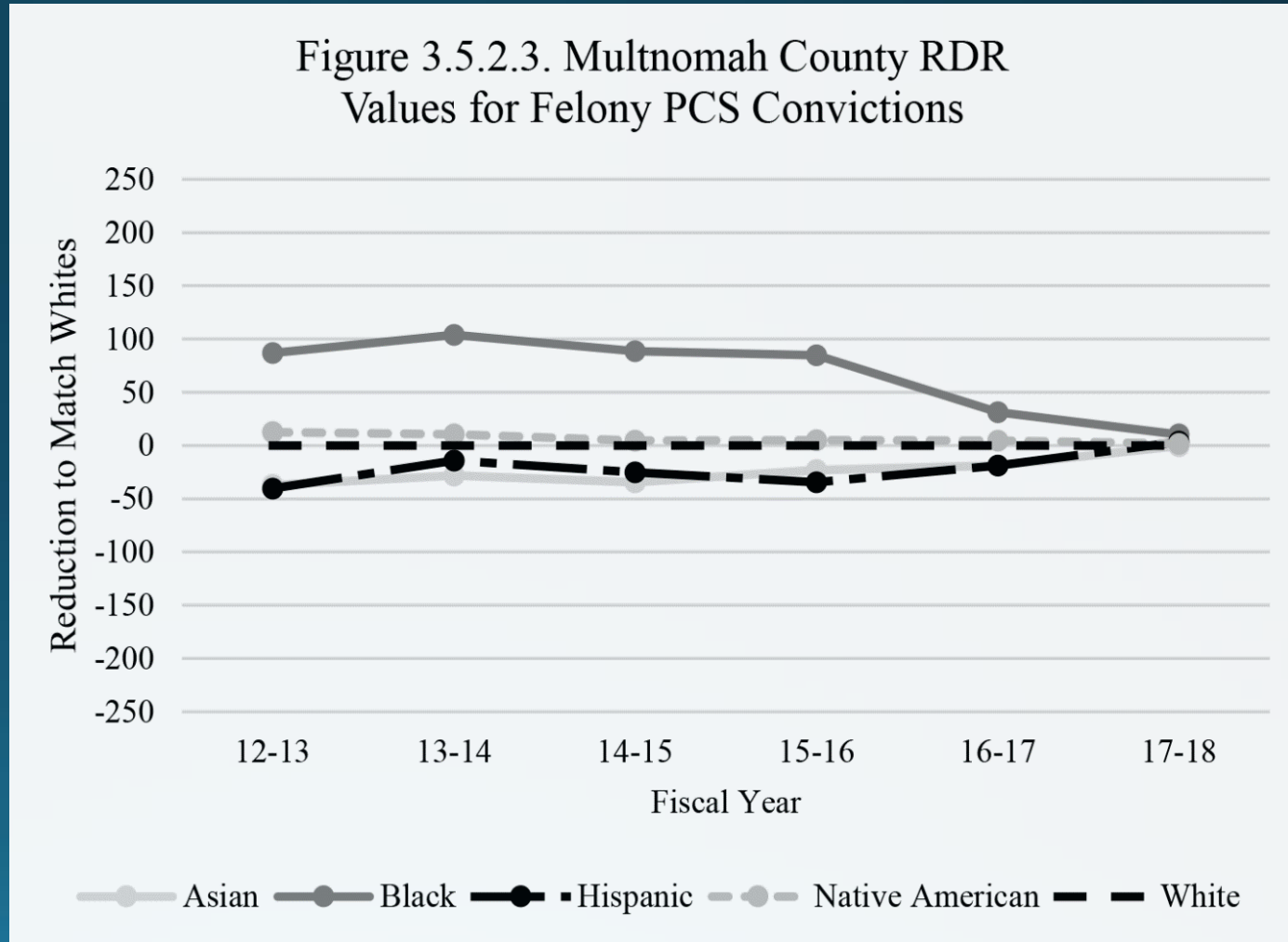


# Racial and Ethnic Disparities

- Acknowledgment of RED existence
- Gathering data
- Identifying disparities
- Create changes that directly address that disparity

# Example from the Field: Multnomah County

- Interfering with public transportation
- Treatment First



# Community Prosecution

- Prosecutions engage with the public and provide:
  - Community education
  - Responses to criminal conduct
- Incarceration is only one of many instruments for social justice, another is community partnership. By utilizing a community-based problem-solving framework, key partners can work collaboratively in creating and implementing strategies for safer communities

# Future of Diversion



- Earlier interventions on a greater scale
- Stronger social services and treatment provider resources
- Application to more challenging populations of offenders and other crimes
- Greater evidence-based application through research partnerships
- General willingness to experiment and innovate new diversion strategies

# The Use of Data and Performance Measures to Monitor and Improve The Prosecutor Decision Making Process



DATA



KNOWLEDGE



ACTION

# The Prosecutor's Ultimate Role

- To make communities safer and ensure justice
  - Invest in alternatives to prosecution, such as diversion programs, to treat, rehabilitate, and address the needs of individuals who commit offenses in lieu of incarceration
  - Regardless of whether an individual is ultimately incarcerated or diverted, the top priority of sentencing should be rehabilitation and re-integration

# Contact Information

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