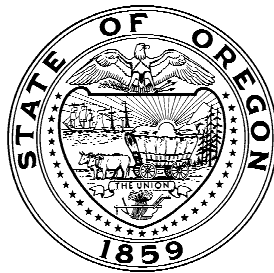


# **Possession of Controlled Substances Report** *Per House Bill 2355 (2017)*

September 15, 2018

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## **Oregon Criminal Justice Commission**

Michael Schmidt  
Executive Director

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The mission of the Oregon Criminal Justice Commission is to improve the legitimacy, efficiency, and effectiveness of state and local criminal justice systems.

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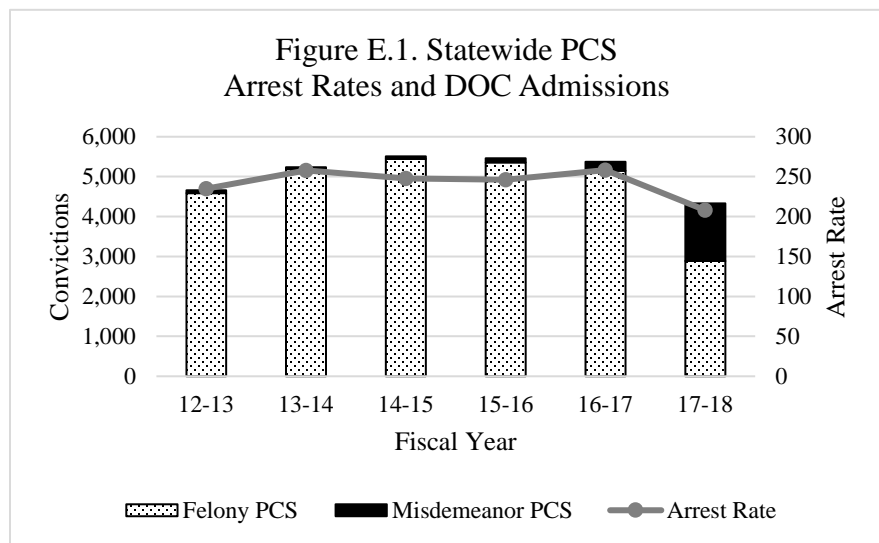
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## Executive Summary

HB 2355 (2017) reclassified the crime of possession of a controlled substance (PCS) to a Class A misdemeanor from a Class B or C Felony. There are exceptions to the reclassification of PCS for the possession of larger amounts of narcotics, as well as for individuals with pre-existing felony convictions. The bill also required the Oregon Criminal Justice Commission to study the effect of the reduction in possession penalties on the criminal justice system, rates of recidivism, and the composition of convicted offenders.

While it is too soon to judge the impact of this law change on recidivism rates,<sup>1</sup> the law has had a profound impact on our criminal justice system. Two impacts stand out significantly. First, within the span of one year there has been a drop of approximately 2,000 felony convictions for PCS. This reduction amounts to roughly a 40% reduction of felony PCS convictions in the state. From that decrease, it can fairly be inferred that this legislation has had a major effect on reducing the number of collateral consequences<sup>2</sup> that would have been faced by individuals in Oregon absent the law change. Second, the disparate rates at which felony convictions for PCS were historically allotted among racial and ethnic groups have been reduced statewide and notably have been very dramatically reduced in Multnomah county.

To study the impacts of HB 2355, the CJC utilized arrest data from the Oregon Law Enforcement Data System (LEDS) and conviction data from the Oregon Department of Corrections (DOC). As shown in Figure E.1, following the enactment of HB 2355 both arrest rates and convictions for PCS fell. Specifically, in the most recent fiscal year, arrests for PCS fell by just over 19 percent, while total



convictions fell by nearly 20 percent. In addition to these overall trends, the share of misdemeanor convictions rose sharply, increasing from 224 in 2016-2017 to 1,443 in 2017-2018, an increase of over 500 percent. While the drop in arrests cannot be attributable to a single factor and may at least partially reflect staffing levels, policing strategies, and other variables beyond the scope of this review, the increase in misdemeanor convictions directly reflects the sentencing modifications made by HB 2355.

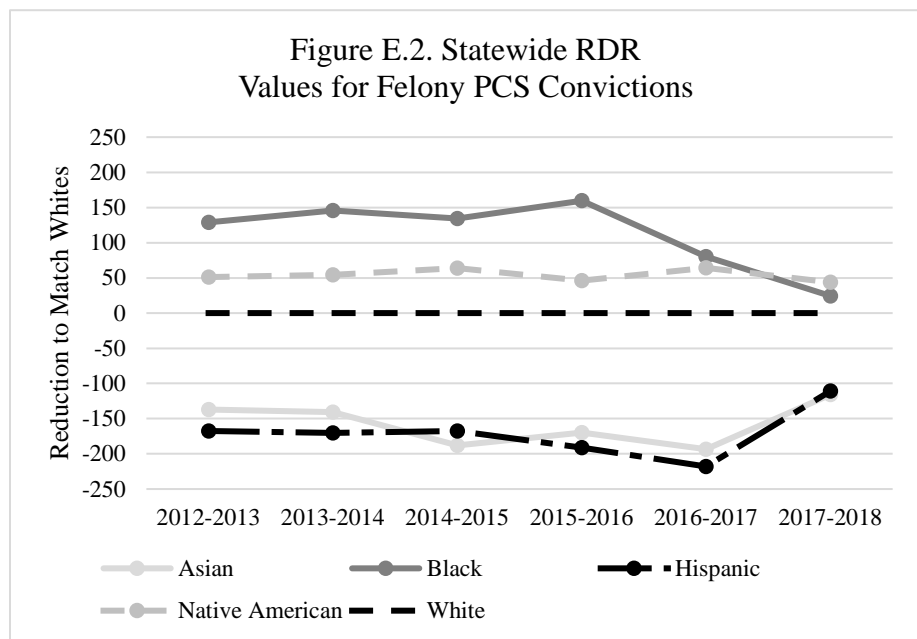
<sup>1</sup> The definition of recidivism in Oregon requires three years of monitoring for arrests for a new crime, convictions for a new crime, and incarceration for a new crime. ORS 423.557

<sup>2</sup> “Too often, individuals with addiction issues find their way to the doorstep of the criminal justice system when they are arrested for possession of a controlled substance. The penalty is often a felony drug conviction where the person may receive a jail sentence, are placed on probation and receive limited treatment services. Unfortunately, felony convictions in these cases also include unintended and collateral consequences including barriers to housing and employment and a disparate impact on minority communities.” Press Release of the Oregon Association Chiefs of Police and the Oregon State Sheriffs Association, dated September 26, 2016.

Beyond these general effects, the changes mandated by HB 2355 have had other impacts as well. First, due to the reduction in PCS convictions more generally, as well as to the rise in misdemeanor convictions, the number of Oregonians convicted of their first felony sentence fell significantly. Specifically, after relative stability in the first five years of the study period, the number of first-time felony convictions fell by just over 50 percent in 2017-2018. This means that almost 1,000 Oregonians have avoided felony status who would likely have become felons before passage of HB 2355.

Second, as mentioned above, data indicates that there have been significant changes in racial disparities for felony PCS since HB 2355 went into effect. To examine racial disparities, the CJC utilized the raw differential representation (RDR) metric, a means for examining disparities in criminal justice system outcomes that does not suffer from the significant shortcomings encountered when using risk ratios. A positive RDR indicates that a group is overrepresented relative to Whites, while a zero value or negative value indicates that a group is either equal to or underrepresented relative to whites, respectively.

Applying the RDR metric, the CJC determined that racial disparities in arrests for PCS were consistent throughout the study period and were not affected by the changes enacted in HB 2355. Patterns for felony convictions, however, were quite different. As shown in Figure E.2, disparities improved significantly for felony convictions following HB 2355. For Black Oregonians, the racial group who has historically experienced



the greatest racial disparity compared to whites for felony PCS convictions, disparities fell significantly. As shown by the RDR metric, while an average of 142 fewer Blacks per year would have had to have been convicted of PCS to reach parity with Whites during the first four years of the study, this disparity fell to 80 in 2016-2017 and 24 in 2017-2018, an overall reduction in the disparity of over 80 percent.

While HB 2355 has only been in effect for a little over one-year, early results show dramatic changes in Oregon’s criminal justice system. The CJC will continue to monitor these system effects. Shortly after the publication of this report the CJC will launch an updated version of its “PCS Dashboard” so that any interested member of the public can monitor these trends for themselves.<sup>3</sup> Furthermore, once enough time has gone by, we will undertake an evaluation of the impact of this law change on the recidivism rates of people convicted of misdemeanor and felony PCS.

<sup>3</sup> The updated dashboard can be found by following this link: <https://www.oregon.gov/cjc/data/Pages/main.aspx>

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## HB 2355 Possession of Controlled Substances Report

### 1. Background

#### 1.1. Legislative Changes Schedule I and II Drug Possession

During the 2017 legislative session, the Oregon State Legislature elected to make several changes to the statutes governing the possession of controlled substances (PCS) through the passage of HB 2355 (2017). As described in § 9 of the Bill, the possession of both Schedule I and II controlled substances were reclassified as Class A misdemeanors. Previously, possession of a Schedule I controlled substance was a Class B felony while possession of a Schedule II controlled substance was a Class C felony.

This general reclassification, however, was not applied to all possession cases. HB 2355 §§ 7 and 8 defined several exceptions to the general reclassification described in § 9. First, possession of a controlled Schedule I or II substance remains a felony if the individual possesses a usable quantity<sup>1</sup> of said substance *and* any of the following conditions apply: (a) the individual has a prior felony conviction, (b) the individual has two or more prior convictions for a usable quantity of a controlled substance, or (c) the possession is a commercial drug offense under 475.900(1)(b). Second, possession of a controlled Schedule I or II substance would remain a felony if the individual possesses a quantity of narcotics above a specific narcotic dependent threshold. Table 1 describes these thresholds by narcotic type.

**Table 1. Exceptions to Reclassification  
of PCS as Class A Misdemeanors by Narcotic Type<sup>2</sup>**

Narcotic Type	Threshold Amount for Felony PCS
Heroin	≥1 gram
MDMA (Ecstasy)	≥1 gram; or ≥5 more pills, tablets, or capsules
Methamphetamine	≥2 grams
LSD	≥40 user units
Psychedelic Mushrooms	≥12 grams
Methadone	≥40 user units
Oxycodone	≥40 pills, tablets, or capsules
Cocaine	≥2 grams

#### 1.2. Legislative Request for a Research Report Regarding the Impacts of HB 2355

Beyond the changes mandated via HB 2355 to possession of Schedule I and II drugs in Oregon, the bill also tasked the Criminal Justice Commission (CJC) with studying its impacts. Specifically, HB 2355 § 24 requires the CJC study the effects the legislative changes outlined above have had on (i) the criminal justice system, (ii) rates of recidivism, and (iii) the composition of the population of persons convicted of

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<sup>1</sup> HB 2355 § 23 defined “usable quantity” to mean: an amount sufficient to physically weigh independent of packaging that does not fall below the uncertainty of the measuring scale, or an amount that has not been deemed unweighable by the state crime lab.

<sup>2</sup> HB 2355 §9(7)(b)(A), lysergic acid diethylamide (LSD); 2355 §9(7)(b)(B), psilocybin or psilocin (psychedelic mushrooms); 2355 §10, ORS 475.824 methadone; 2355 §11, ORS 475.834 oxycodone; 2355 §12, ORS 475.854 heroin; 2355 §13, ORS 475.874 3,4-methylenedioxymethamphetamine (MDMA or Ecstasy); 2355 §14, ORS 475.884 Cocaine; 2355 §15, ORS 475.894 methamphetamine.

felony offenses. The changes enacted by HB 2355 were effective as of August 15, 2017 and applied to all charges filed after that date.

### 1.3. HB 2355 Research Report Background

This report contains the results from analyses conducted by the CJC as required in HB 2355. It is important to note at the outset, however, the CJC was unable to study all of the outcomes requested in the bill. Specifically, given the period of time that has elapsed since the effective date of HB 2355, it is not yet possible to evaluate changes in recidivism rates attributable to the bill. In Oregon, “recidivism,” as defined in ORS 423.557, is an arrest, conviction, or incarceration for a new crime within three years of release from custody or the start of a probation term. Thus, to evaluate the effects of HB 2355, it is necessary to wait until at least August of 2020, when the first individuals charged under the new system begin to hit the three-year mark necessary for a full recidivism analysis (although it would be best to wait even longer to ensure that a large enough cohort of offenders would be available for analysis due to the lag time between arrest and conviction).

Reporting on the effects of HB 2355 presents several challenges due to the complex nature of the legal and criminal justice systems that the CJC had to overcome. First, given the effective date of HB 2355 was in August of 2017, the CJC was unable to conduct its analyses using a standard calendar year to compare the time preceding and subsequent to the law change. To address this issue, the CJC examined arrest and conviction trends by fiscal year, starting with 2010-2011 and ending with 2017-2018. This allowed the CJC to most directly compare the trends before and after the law change while also setting an easily interpretable standard to communicate trends in future reports or on the CJC’s website. Beyond this general date issue, Multnomah County began to institute the changes mandated by HB 2355 a full five months before the law came into effect. To account for this timing difference, the CJC examined Multnomah County’s trends separately in analyses that will follow initial discussions of statewide trends.

Second, another complicating factor in examining conviction rates for PCS is the fact that many PCS cases involve conditional discharges. In a conditional discharge case, a defendant pleads or is found guilty of a PCS crime, but the court is permitted to place the defendant on probation without entering a formal judgment (ORS 475.245(1)). If the defendant successfully completes their term of probation, the court discharges the individual and dismisses the case against them (ORS 475.245(3)). If the individual violates their probationary terms, however, the court may adjudicate the individual guilty and proceed as otherwise provided by Oregon Statute (ORS 475.245(2)). The primary challenge this program poses from a data perspective is that true conviction data is incomplete in recent years. This is because as individuals currently participating in the conditional discharge program they cannot be counted as truly convicted unless and until they fail to complete their often multi-year term of probation. This impacts comparisons of trends in particular, because if true convictions were used in the analyses then they would be upwardly biased during the most recent fiscal years. To address this issue, the comparisons of trends over time will be made for data containing felony convictions including all conditional discharge cases, which means all individuals who enter into the system, regardless of whether they have been given the opportunity for a conditional discharge and/or completed the conditional discharge program, will be included in our counts. While this overestimates the trends in PCS slightly, it has two distinct advantages: (a) it allows for accurate comparisons of trends over time as the overestimation is consistent over time, and (b) it provides the most up to date information on current trends. For ease of interpretation, however, throughout this report the CJC will refer to this statistic as “convictions (including yet to be completed conditional discharge cases)”.



To measure the effects of the changes mandated in HB 2355, the CJC relied on two sources of data: data regarding arrests found in the Oregon Law Enforcement Data System (LEDS) and data from the Oregon Department of Corrections (DOC) regarding convictions. The CJC queried data from 2012 through 2018 from each of these systems in an effort to provide a sufficient number of data points to make comparisons between the years preceding the law as well as the year following the effective date of HB 2355.

## 2. Statewide Effects of HB 2355

Figure 2.1 displays data regarding arrest trends for PCS statewide. For this figure, as well as all figures that follow displaying LEDS data, the CJC includes all arrests where the PCS crime was the most serious offense. Further, it is important to note that LEDS data does not differentiate between felony and misdemeanor PCS.<sup>3</sup> Examining the data trend for all PCS arrests, Figure 2.1 shows that after a period of relative stability, there was a decrease in arrests following the changes instituted by HB 2355. Specifically, in 2017-2018, PCS arrests fell from a previous high of 258 per 100,000 population (10,511 arrests) to 208 per 100,000 population (8,618), a difference of just over 19 percent.

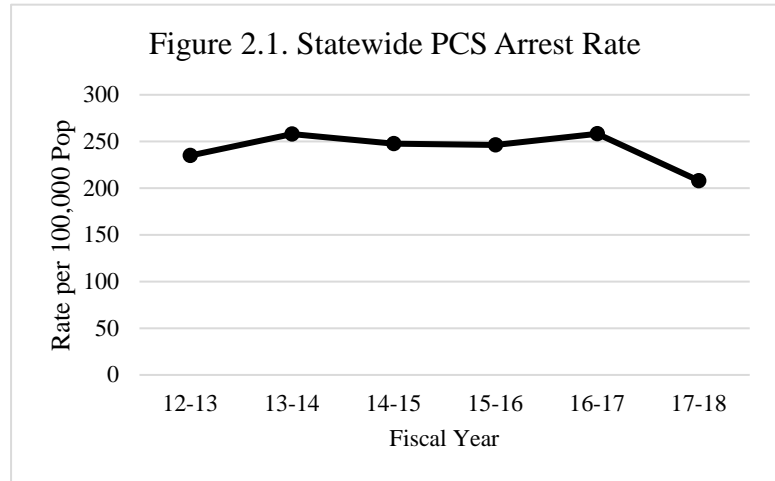
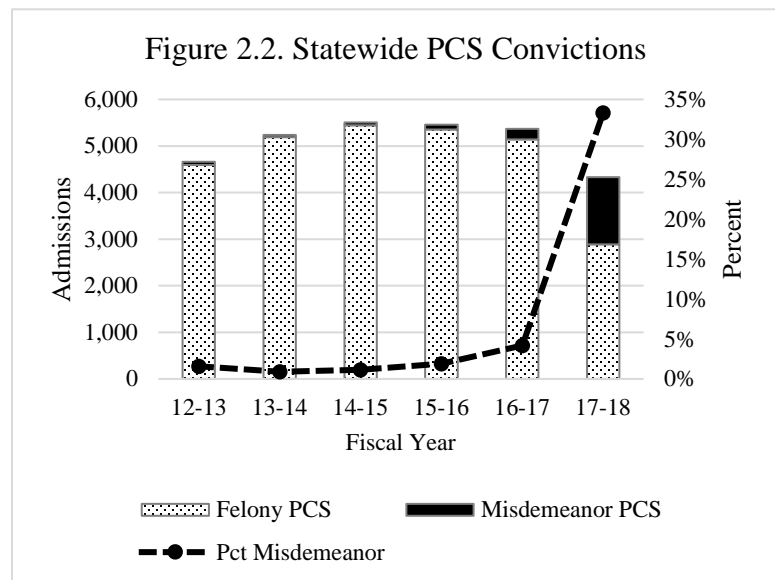


Figure 2.2 displays data on DOC convictions (including yet to be completed conditional discharge cases) for PCS broken down by felonies and misdemeanors. Similar to arrests, for all conviction data the CJC examined convictions where PCS was the most serious offense. The first trend of note was total PCS convictions fell after HB 2355 became effective. Between the 2013-2014 and 2016-2017 fiscal years, total convictions changed very little, ranging from around 5,100 to approximately 5,300. In 2017-2018, however, total convictions fell by 1,037, or nearly 20 percent. Second, Figure 2.2 also displays the share of felony compared to



<sup>3</sup> In most cases, prosecutors make the decision to charge an individual with a felony versus a misdemeanor for PCS. This is due to the fact that charges often cannot be determined until narcotics have been weighed and/or analyzed and criminal histories have been examined.

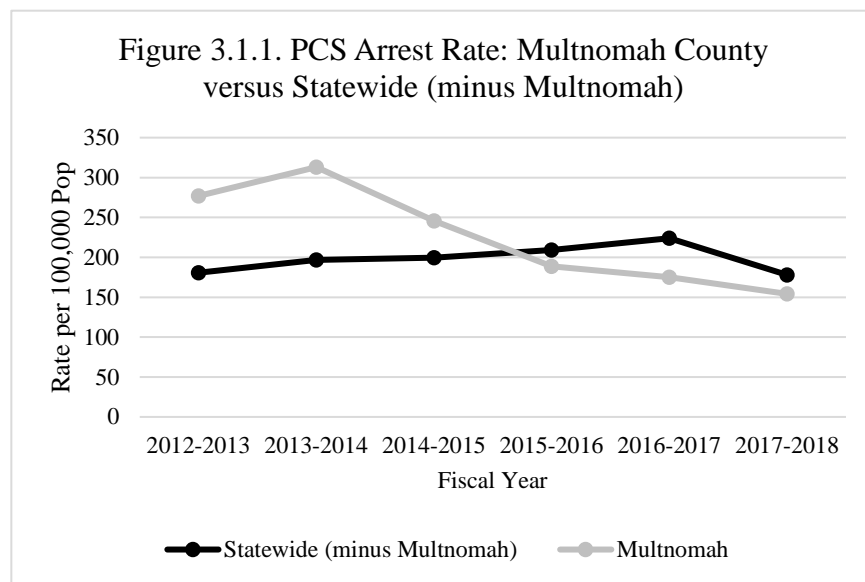
misdemeanor PCS convictions for the study period. While data regarding misdemeanor PCS convictions before the passage of HB 2355 is incomplete and should be interpreted with a degree of caution, it was clear that there has been significant change.<sup>4</sup> Prior to 2017-2018, misdemeanors never made up more than four percent of convictions in any given year. Following HB 2355, however, the percentage of misdemeanor convictions jumped to just over 33 percent. In terms of the number of convictions this change represents, the increase is even more striking, as misdemeanors progressed from 103 to 224 from 2015-2016 to 2016-2017 before increasing to 1,443 in 2017-2018. In all, this means that compared to 2016-2017, there are over 2,200 fewer felons in Oregon.

### 3. Detailed Effects of HB 2355

Changes, such as those made in HB 2355, represent a significant policy shift regarding the treatment of individuals arrested and convicted of PCS in Oregon. It was necessary, therefore, to examine the shifts and trends for PCS in greater detail because patterns for different types of PCS broken down by drug type, changes in racial disparities, and shifts in trends regarding first time felonies, among others, could shed additional light on both the direct and latent effects of the changes mandated by HB 2355. Furthermore, beyond changes that may be occurring statewide, it was also necessary to consider possible differences attributable to geographic variation. As introduced above in Section 1 of this report, Multnomah County began to institute the changes found in HB 2355 before the law became effective statewide. This difference in the initial date of implementation, combined with the fact that Multnomah County is the largest single political entity in the state with regards to population, led the CJC to believe a comparison between the patterns seen in Multnomah County versus the rest of the state was warranted.

#### 3.1. Arrests and Felony Convictions

Figure 3.1.1 displays the trends in overall PCS arrest rates for Multnomah County as well as the remainder of the state during the study period. As reported above in Figure 2.1, aggregate state arrests were relatively steady throughout much of the study period before falling after HB 2355 came into effect. When the CJC disaggregated these data as displayed in Figure 3.1, however, a stark difference between Multnomah County

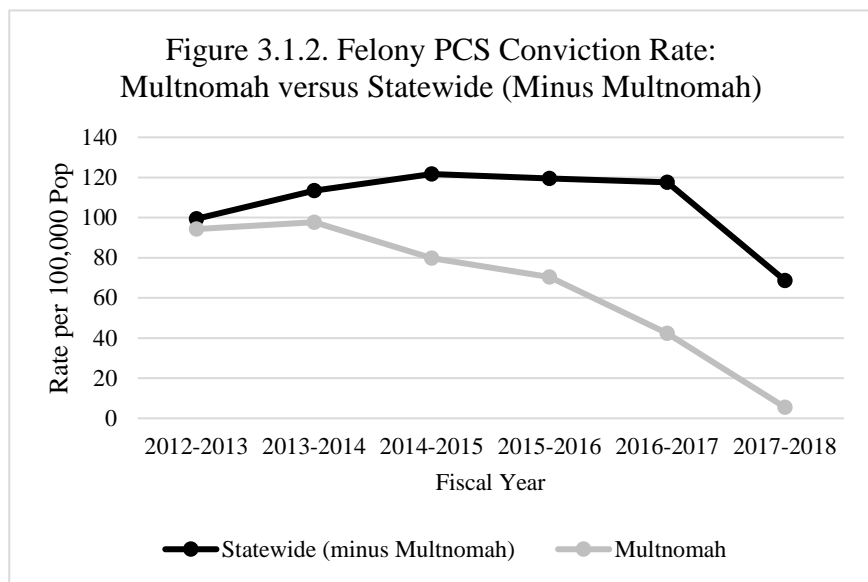


<sup>4</sup> In addition to the reclassification of PCS, HB 2355 also made changes to the community corrections grant-in-aid formula to include drug possession misdemeanor caseloads. Prior to HB 2355, misdemeanor drug PCS supervision cases were not included in the grant-in-aid formula and often were not entered into the DOC data system. Now that funding levels are now tied to accurate reporting, misdemeanor conviction data has improved substantially. It is possible, however, that some misdemeanors may still be missed in the DOC data if offenders are being supervised through alternative means outside of community corrections, such as through bench probation.

and the rest of the state became apparent. Statewide, outside of Multnomah County, the pattern in arrests remained largely the same, as it appears that HB 2355 reversed a previously steady trend in arrest rates. In Multnomah County, on the other hand, arrests fell during nearly the entire study period. Indeed, after peaking at 313 per 100,000 in 2013-2014 (2,396 in total), PCS arrests fell steadily until they reached a little over 154 per 100,000 in the most recent fiscal year (1,245 arrests).

Figure 3.1.2 displays trends in felony conviction rates (including yet to be completed conditional discharge cases), again, comparing rates in Multnomah County to those of the remaining counties statewide. Concerning convictions, statewide the rate was relatively steady during the study period, particularly from the 2014-2015 fiscal year to 2016-2017. Following HB 2355, however, felony convictions saw a significant reduction, falling from 118 per 100,000 in 2016-2017 to 69 per 100,000 in the most recent fiscal year, a reduction of nearly 42 percent.

The trend reported for Multnomah County, however, was quite different. Similar to the findings for arrest rates, above, felony conviction rates began to fall in Multnomah County after the 2013-2014 fiscal year. After the peak of nearly 98 felony convictions per 100,000 in 2013-2014, rates began to plummet before reaching just over 5 per 100,000 in the most recent fiscal year. This significant drop represents a reduction of almost 94 percent (in raw numbers, felony convictions fell from 340 in 2016-2017 to just 44 in 2017-2018).



### 3.2. Drug Breakdown of Arrests and Felony Convictions

Recent media attention has focused on the unfortunate rise in the use and abuse of heroin in Oregon. In addition, the use and abuse of methamphetamine remains a serious issue within the state. Changes in trends for arrests and convictions for these drugs, therefore, may be particularly important, because simply relying on aggregate counts of drug arrests and convictions could mask more complex patterns within individual drug types. Figure 3.2.1 displays arrest and DOC felony conviction rates (including yet to be completed conditional discharge cases) for methamphetamine for Multnomah County as well as for the rest of the state (minus Multnomah County). Outside of Multnomah County, arrests for methamphetamine possession climbed steadily during the majority of the study period, peaking at almost 162 per 100,000 during the 2016-2017 fiscal year (6,607 arrests). After HB 2355 came into effect in 2017-2018 the arrest rate dropped by almost 22 percent to 246 per 100,000. During the same period, statewide felony convictions for possession of methamphetamine were relatively steady before falling in the most recent fiscal year. Convictions fell by almost 45 percent in 2017-2018 compared to 2016-2017, as the rate was reduced from 97 to 54 convictions per 100,000.

For Multnomah County, Figure 3.2.1 reports a different pattern. The arrest rate, fell every year following 2013-2014. Indeed, since the peak of 138 arrests per 100,000 in 2013-2014, the arrest rate fell by 60 percent, to just over 55 arrests per 100,000 in 2017-2018. The conviction rate in Multnomah County fell in a similar fashion from a peak rate of 56 in 2013-2014 to just over 3 per 100,000 in the most recent fiscal year.

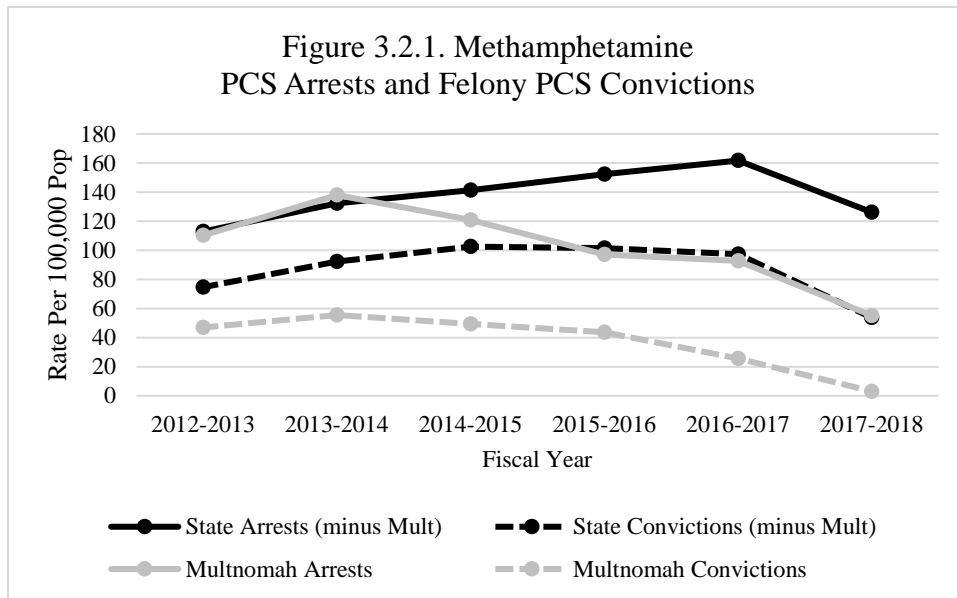
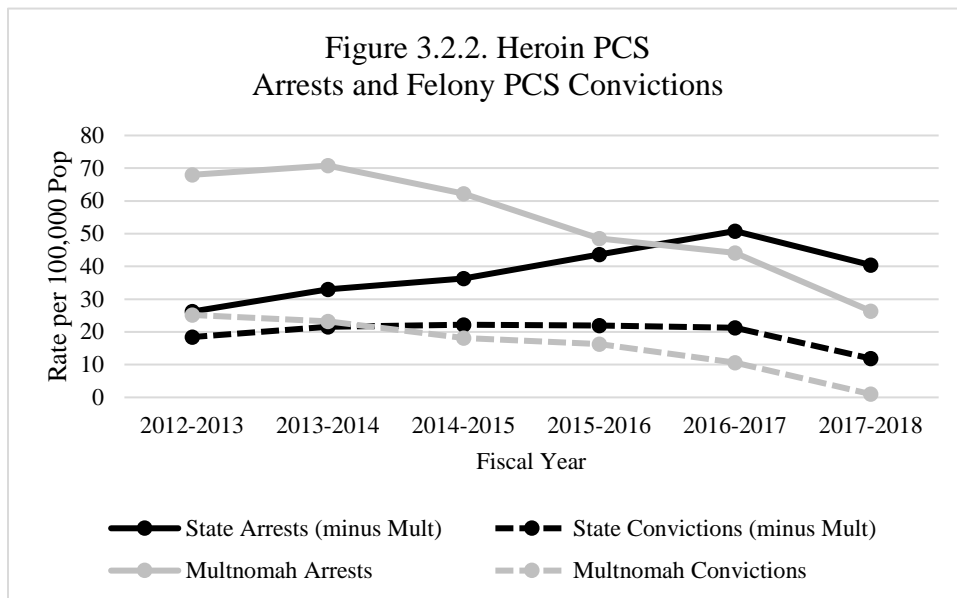


Figure 3.2.2 displays arrest and felony conviction rates (including yet to be completed conditional discharge cases) for possession of heroin. Similar to methamphetamine, statewide (minus Multnomah County) heroin PCS arrests climbed throughout the majority of the study period before falling after HB 2355 went into effect. The



magnitude of the reduction in heroin PCS arrests was also similar to methamphetamine, as the arrest rate fell just over 20 percent in the most recent fiscal year. The trends for felony heroin PCS convictions were also similar to methamphetamine, as a relatively flat trajectory was followed by a reduction following HB 2355. Specifically, statewide heroin felony PCS convictions fell from a little over 21 per 100,000 in 2016-2017 to approximately 12 per 100,000 in the most recent fiscal year, a 44 percent reduction.

The patterns for heroin PCS in Multnomah County reported in Figure 3.2.2 differ substantially from the trends found in the rest of the state. Similar to the trends reported for methamphetamine, Multnomah County's heroin arrest rate peaked in 2013-2014 before falling through the majority of the study period.

What was different for heroin versus methamphetamine possession arrest rates in Multnomah county, however, was while the rate of methamphetamine possession arrests was comparable to state rates before falling, the rate of heroin possession arrests in Multnomah County were much higher than those found in the rest of the state during the first half of the study period. Indeed, it was only after sustained reductions in arrests that the trend for Multnomah County heroin arrest rates fell below those found statewide. Concerning felony heroin convictions, there was a similar pattern to methamphetamine conviction trends given that felony heroin convictions peaked at the beginning of the study period before falling steadily.

### 3.3. Misdemeanor Convictions

As described above in Section 1, the statutory change enacted by HB 2355 reduced many instances of PCS to the Class A Misdemeanor level. On the whole, this led to a significant increase in the number of misdemeanor convictions (including yet to be completed conditional discharge cases) for PCS as discussed previously in Section 2. To provide additional context regarding this trend, however, it was necessary to examine the trends for Multnomah County versus the rest of the state given the fact Multnomah County began to institute the changes enacted by HB 2355 earlier.

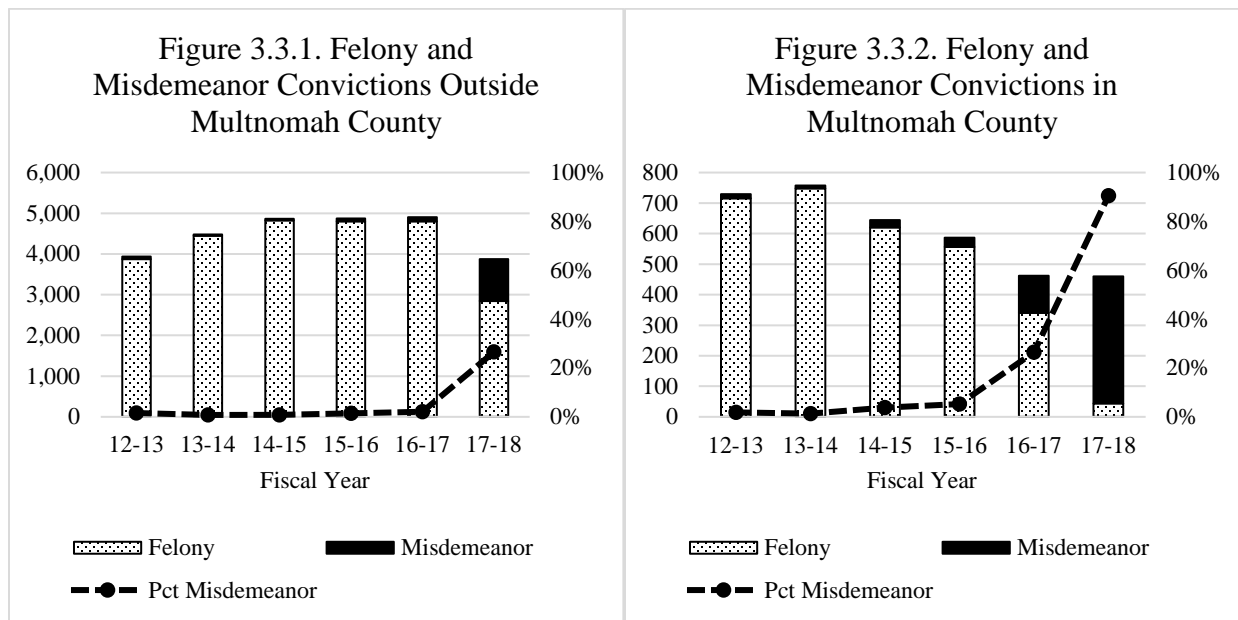
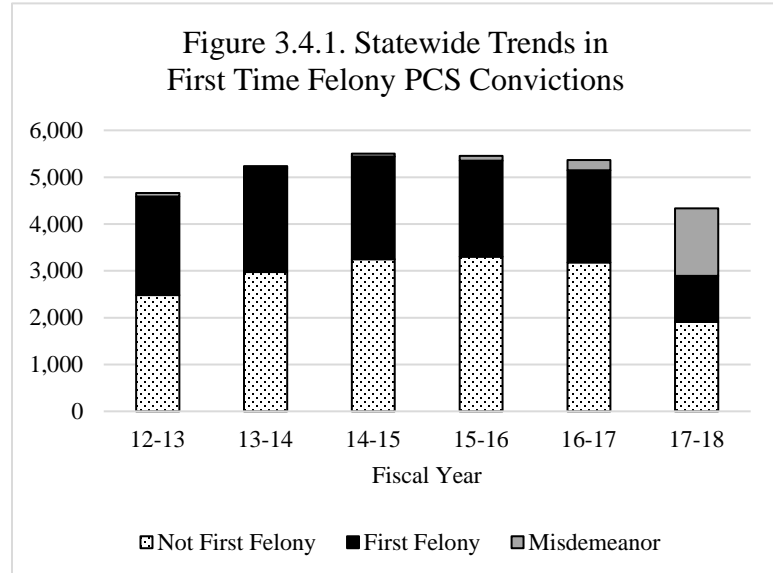


Figure 3.3.1 presents the statewide felony versus misdemeanor PCS conviction trends (including yet to be completed conditional discharge cases) when Multnomah County’s numbers were removed. While these data should be treated with caution due to the lack of consistent tracking prior to the passage of HB 2355, the trend outside Multnomah County was quite similar to the true statewide trend reported previously in Section 2. What was different, however, was with Multnomah removed, the share of misdemeanors fell. As shown in Figure 3.3.1, the percent misdemeanor PCS convictions was only 27 percent following HB 2355. As shown in Figure 3.3.2, in Multnomah County the share of misdemeanor convictions was much higher, hitting 26 percent in 2016-2017 and 90 percent in 2017-2018. Thus, it was clear much of the growth in misdemeanor convictions was attributable to the significant changes in charging practices in Multnomah County both immediately before and following the effective date of HB 2355.

### 3.4. First Time Felony Convictions

One concern that motivated the passage of HB 2355 was the argument that many individuals convicted of PCS were first time felons and that bringing these individuals into the criminal justice system at a felony level could prove harmful to a population that was more in need of treatment rather than punishment. As stated by the Oregon State Sheriffs' Association and Oregon Association of Chiefs of Police during the crafting and debate over HB 2355, in addition to jail or probation sentences "felony convictions in [PCS] cases also include unintended and collateral



consequences including barriers to housing and employment and a disparate impact on minority communities.”<sup>5</sup> While an assessment of this argument was beyond the scope of this study, trends in convictions (including yet to be completed conditional discharge cases) indicate changes in the first time felony population have occurred. As shown in Figure 3.4.1, the number of first time felony convictions for PCS decreased significantly following the passage of HB 2355. In fact, the number of first time felony convictions fell by 984 from 2016-2017 to 2017-2018, a reduction of just over 50 percent.<sup>6</sup> This reduction, however, was primarily attributable to the falling number of felony convictions, rather than a significant reduction in the share of first time felonies among all felons. In previous years, the percent of felonies that were first time felonies hovered around 40 percent. In 2017-2018, the percentage of first time felonies fell, but only to 34 percent.<sup>7</sup>

### 3.5. Racial Trends and Disparities in Arrests and Convictions

Research conducted and published by academics consistently demonstrates there is a significant racial disparity in criminal justice contact, ranging from police-citizen encounters to arrest, prosecution, sentencing, and incarceration (Stewart et al. 2017; Wakefield and Uggen 2010). While a portion of the disparities exist between members of different racial/ethnic groups can be explained by differential involvement in crime, the body of research consistently demonstrates differences persist even after accounting for legal factors (Stewart et al. 2017).

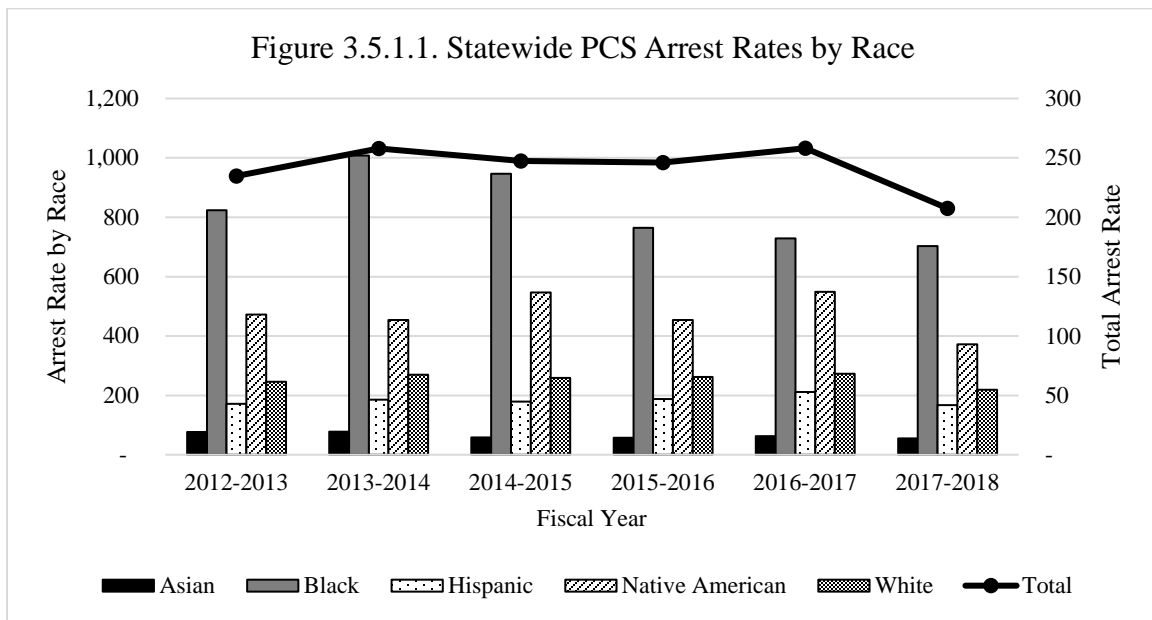
<sup>5</sup> Please see press release dated September 26, 2016, entitled “Oregon Sheriffs and Chiefs of Police Support a New Approach to Drug Possession Crimes.” In addition, for a discussion of the empirical evidence regarding the wide-ranging collateral consequences of a felony conviction, please see, *inter alia*, Shannon et al. 2017; Ewald and Uggen 2012; and Massoglia 2008.

<sup>6</sup> To classify individuals as first time felons, the CJC examined each individual’s past felony conviction history using Oregon DOC data. If an individual had no felony record in the DOC data preceding their PCS conviction, then that individual was classified as a first time felon. It is possible, however, that a subset of individuals identified as first time felons in this report could have out of state felony convictions, as data on convictions from outside the State of Oregon is not included in the DOC data possessed by the CJC.

<sup>7</sup> No significant differences in first time felony trends were found for Multnomah County (results available upon request).

Beyond disparities that cut across the criminal justice system, research demonstrates differences between members of different racial/ethnic groups is particularly acute for drug crimes (Stewart et al. 2017; Beckett, Nyrop, and Pfingst 2006). The existence of this disparity is concerning, particularly because research has long shown racial differences in substance use and abuse do not conform to arrest and conviction patterns. Indeed, the body of scientific research examining drug use and abuse has consistently found there are only slight differences by race and in most instances, the racial/ethnic groups with the highest drug use and abuse rates are Whites and Hispanics.<sup>8</sup>

### 3.5.1. Racial Trends in Arrests and Felony Convictions



Section 2 presented data on the overall arrest and conviction rates for PCS statewide.<sup>9</sup> To explore these general trends, Figures 3.5.1.1 and 3.5.1.2 present arrest and felony conviction rates disaggregated by

<sup>8</sup> Studies of drug use and abuse by race most often focus on adolescents and young adults aged 17 to 25 because the extant research has consistently found that rates of use and abuse are highest among individuals within that age bracket (McCabe et al. 2007; Meich et al. 2016). Studies of 12<sup>th</sup> graders via the well-respected, national Monitoring the Future Study report that Whites and Hispanics tend to use hallucinogens, MDMA, cocaine, and prescription drugs at rates that were higher than Blacks (rates of use among Asians are quite small and rarely included in these comparisons). The use of heroin and methamphetamine does differ by race, with each racial group taking its turn as the group with the highest prevalence of use. The rates at which these drugs are used by adolescents, however, is so small (e.g., heroin use among Blacks stood at 1% in 2015) that comparisons must be made with caution. Among slightly older individuals of what would normally be thought of as “college age,” the highest drug use rates are generally found to be for Hispanic and White individuals, with Blacks and Asians following behind in that order (McCabe et al. 2007).

<sup>9</sup> As described in detail via CJC technical documentation which can be accessed on the CJC website the use of data regarding offenders’ race collected both in LEDS and by the DOC can be quite challenging. Chief among these challenges is the fact that both data sources have been shown to contain inaccuracies in racial identification data. To address these issues, the CJC has developed a racial correction algorithm based on Bayesian Improved Surname Geocoding (BISG), an approach that is widely used in studies and litigation evaluating mortgage and non-mortgage lending patterns, in academic research, and by financial institutions (*see* Elliott et al. 2009). Using this algorithm, the CJC was able to address serious issues related to undercounting individuals of Hispanic ethnicity in the DOC data,

race. Figure 3.5.1.1, presents the arrest rate by racial group via a histogram for each fiscal year, and the overall arrest rate is superimposed above as a line and reported on the secondary axis on the right. Figure 3.5.1.1 reports that Blacks experienced the highest arrest rate throughout the study period as their arrest rate has consistently been nearly double that of the next closest group, Native Americans. Since 2015-2016, however, the arrest rate fell compared to years past, although it still remains quite high relative to other groups, as it sits at approximately 829 arrests per 100,000 population on average. Native Americans experienced the next highest arrest rate, and similar to Blacks, this rate was relatively consistent throughout the study period, peaking most recently in 2016-2017 at 549 arrests per 100,000 population before falling to 372 in the most recent fiscal year. Whites and Hispanics experienced similar arrest rates to one another, as the average arrest rate during the study period for Whites was 255 per 100,000 population while the average rate for Hispanics was 184. Asians reported the lowest rate of all, averaging 64 per 100,000 during this six-year period. Again, there was a similar pattern of relative consistency for these three racial groups across time.<sup>10</sup>

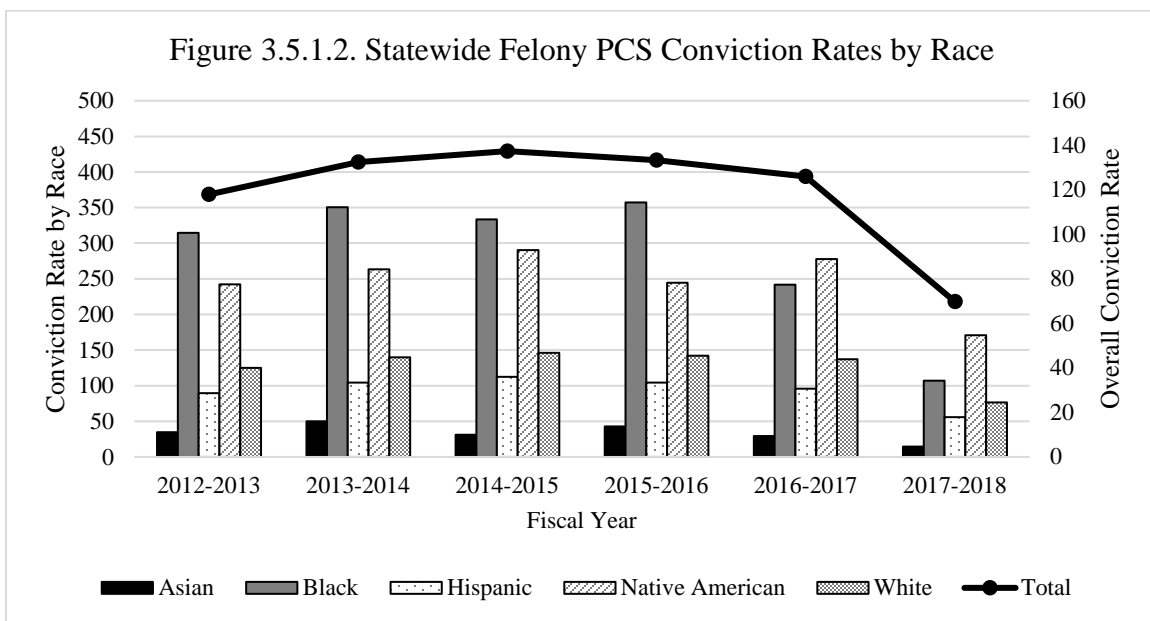


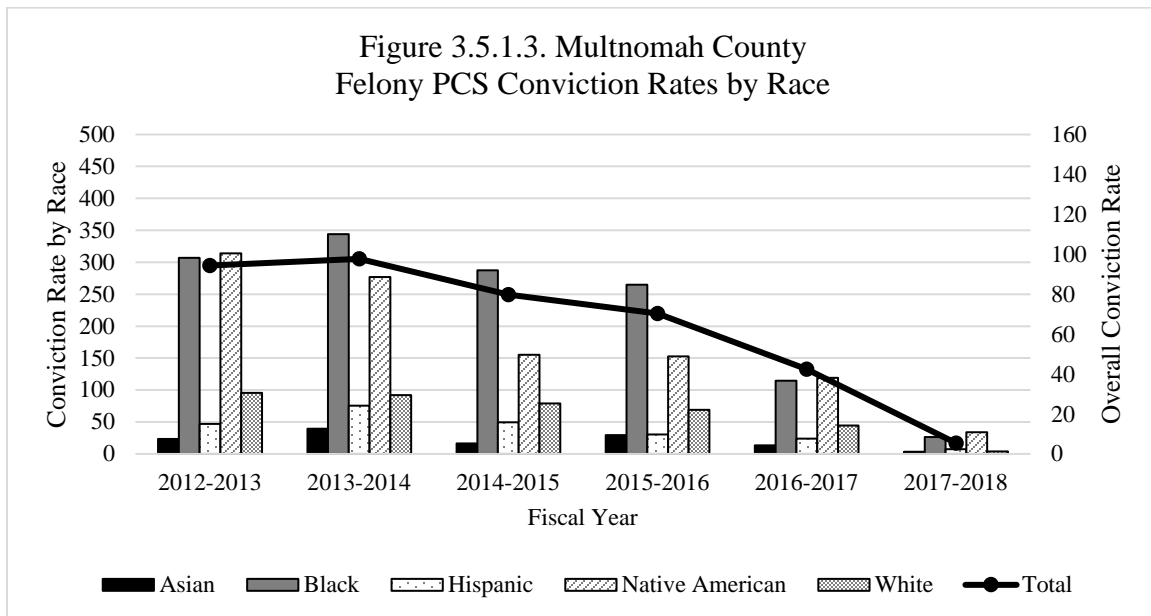
Figure 3.5.1.2 presents statewide felony PCS conviction (including yet to be completed conditional discharge cases) rates by race during the study period. Compared to arrest rates, the patterns for felony convictions were quite different. For Blacks, conviction rates were relatively stable during the first four fiscal years, averaging 339 convictions per 100,000 population, before falling to a rate of 242 in 2016-2017 and 107 in 2017-2018, an overall reduction of 70 percent. Indeed, due to this reduction in the two most recent fiscal years, Native Americans now eclipse Blacks and report the highest felony PCS conviction rate, although it was notable that Native Americans rates also fell between the 2016-2017 and 2017-2018 fiscal years. Relatedly, the effects of HB 2355 were pronounced for convictions by race, as all races saw a significant reduction in their conviction rates during the most recent fiscal year. Similar to arrests, the conviction rates for Whites and Hispanics were relatively comparable, as Whites were

as well as the fact that Hispanics have historically not been identified at all in LEDSD data. Accordingly, the race variable used in this report contains the following categories: White, Black, Hispanic, Asian, and Native American.

<sup>10</sup> Data regarding arrest trends for Multnomah County were examined separately and no discernable difference in the pattern of arrests by race compared to statewide data was detected. Data for Multnomah County, as well as data for the state minus Multnomah, are available upon request.



convicted of felony PCS at an average rate of 128 per 100,000 population during the study period while Hispanics were convicted at an average rate of 94 per 100,000. Asians, again, reported the lowest rates, with an average of just 34 per 100,000 during the study period.

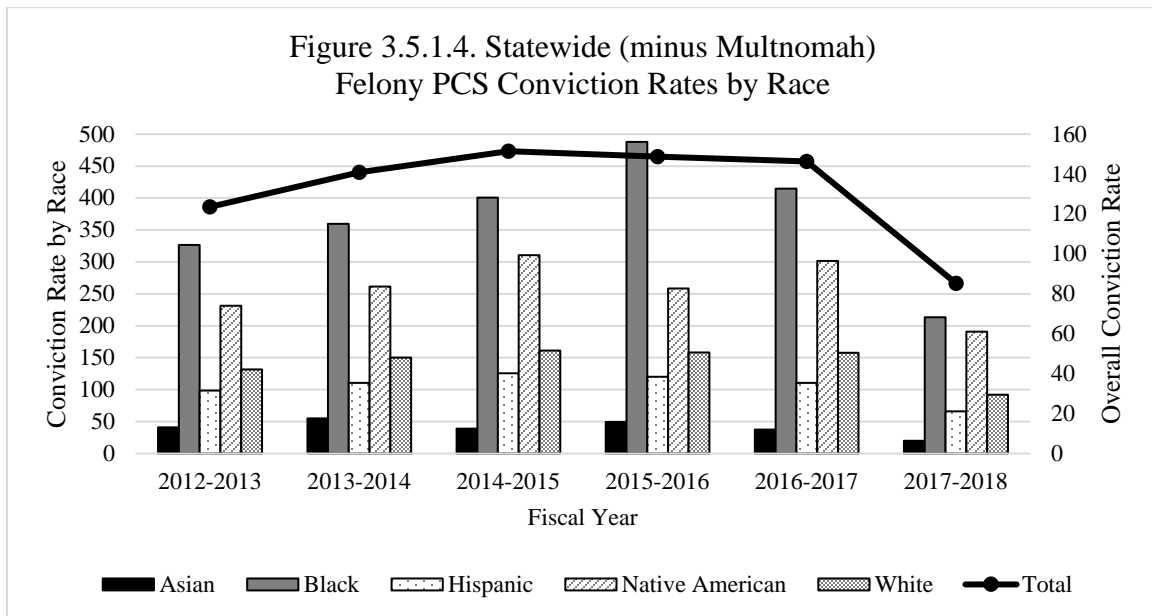


As discussed in Section 3.1, above, felony PCS conviction rates statewide were quite different compared to those in Multnomah County during the study period. To further explore these differences, Figure 3.5.1.3 reports felony PCS conviction rates (including yet to be completed conditional discharge cases) by race for Multnomah County. Some patterns in the disaggregated data were similar between the statewide rates and Multnomah County. First, as seen statewide, in Multnomah County felony conviction rates dropped across racial groups, falling by at least 75 percent for each population. Second, Blacks and Native Americans reported the highest rates, followed by Whites, Hispanics, and Asians.

There were, however, some significant differences. First, in several years of the study period, conviction rates for Native Americans were at or above that of Blacks, including the initial two fiscal years and most recent two fiscal years. Second, there was a larger gap between Whites and Hispanics compared to the Statewide rates, as Whites were convicted at an average rate of 76 per 100,000 through the first five years of the study period while Hispanics were convicted at an average rate of 45 per 100,000. Second, the reductions in conviction rates across the board were much more pronounced in Multnomah County compared to statewide rates. As discussed previously in section 2, the fall in convictions in Multnomah County began in 2013-2014, but reductions in the last two fiscal years accelerated beyond what was seen previously. Indeed, from 2015-2016 to 2017-2018, conviction rates for Asians fell by 89 percent, Blacks fell by 90 percent, Hispanics fell by 75 percent, Native Americans fell by 78%, and Whites fell by 95%.

Finally, to explore the effect that Multnomah County had on statewide rates, Figure 3.5.1.4 presents data on statewide felony conviction rates (including yet to be completed conditional discharge cases) by race for the remaining 35 Oregon counties with Multnomah removed. The overall conviction rate pattern for the counties outside Multnomah was relatively similar to the true statewide data, as the trend line took a similar shape across the study period. With Multnomah removed, however, the trend line was pushed upward, particularly in the two most recent fiscal years given Multnomah's significant reductions in

felony PCS convictions overall. When disaggregated by race, some interesting patterns emerge. First, Black felony conviction rates were consistently higher outside of Multnomah County, particularly in the last few fiscal years. In fact, while Black felony conviction rates fell by over 50 percent outside of Multnomah County between 2015-2016 and 2017-2018, the rate of 213 per 100,000 was still far above the rate reported within Multnomah County of 27 felony convictions per 100,000 population. The second pattern of note was that outside of Multnomah County the rates for Whites and Hispanics were more similar to one another.



In sum, there were several important takeaways with regards to arrest and conviction rates broken down by race. First, while PCS arrests have fallen overall, arrest rates across different racial groups have remained relatively stable. Second, regarding felony convictions, the overall reduction in convictions statewide has led to a reduction in conviction rates across all racial groups. This reduction was particularly pronounced in Multnomah County and this reduction has driven down state rates substantially. Even with Multnomah County removed from the data, however, the modest reductions in felony convictions across the state have still impacted individuals of all races.

### 3.5.2. Racial Disparities in Arrests and Felony Convictions

The CJC has recently reported on racial and ethnic disparities regarding PCS in Oregon via data dashboards on its website. In so doing, the CJC, similar to many other analyses and studies, has reported risk ratios as a means for understanding disparities because risk ratios provide data on the relative rates at which members of different races were found in the criminal justice system in relation to their share of the population. For example, as reported by the CJC, between 2012 and 2016 the average disparity for Black Oregonians using a risk ratio was 2.5, which indicates that, the rate of convictions for Black people in Oregon was 2.5 times that of Whites in Oregon. Stated differently, on average, a Black person in Oregon was 2.5 times as likely to be convicted of a PCS felony as a White person in the state.

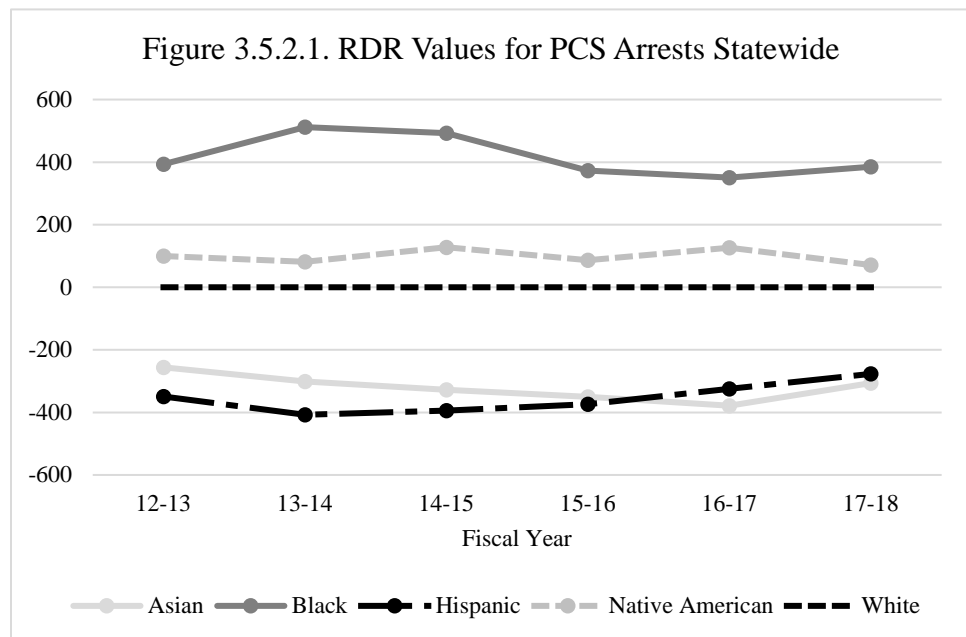
Reliance on risk ratios as the exclusive measure of racial disparities, however, is not advisable and can be particularly problematic when the data in question take certain forms. As discussed by Girvan, McIntosh,

and Smolkowski (2018), while risk ratios are relatively straightforward and understandable metrics, they can be unstable in certain situations. The first source of instability occurs when risk ratios are calculated for small groups, as minor changes for small groups can lead to large changes in the ratios. Second, and relatedly, the use of risk ratios for comparisons over time is also very problematic. Due to the highly variable nature of risk ratios, it is often difficult to discern whether observed changes are due to meaningful differences on the ground or the result of instability in the measure itself. Finally, risk ratios tell researchers and policy makers nothing about the numbers of people actually affected by changes in trends or policies. This means that while it is possible to assess whether a disparity has gotten “better” or “worse” over time, it is impossible to determine just how much better or worse the situation is using risk ratios.

One way to address these issues is to use an alternative measure of disproportionality, the raw differential representation (RDR) metric. The RDR metric is more stable than risk ratios and is particularly appropriate for making comparisons over time (Girvan, McIntosh, and Smolkowski 2018). It is also an intuitive measure that reports statistics of disproportionality in terms of the number of individuals affected, which can better guide policy makers and report real, on the ground changes that occur in response to new policies and practices.

Substantively, the RDR represents the reduction in arrests or convictions that would be required to reach parity with Whites given population differences across race. As such, the RDR value for Whites was always zero because it was the group to which others were compared. Positive RDRs for non-White racial groups indicated that a reduction equal to that number was necessary to bring the group in line with Whites. Thus, if a racial group reported an RDR of 12 for convictions, then it would indicate that 12 fewer convictions for individuals of that group would be required to achieve parity with Whites. Alternatively, if the RDR value was negative for a non-White group, it indicates that the non-White group is underrepresented relative to Whites.

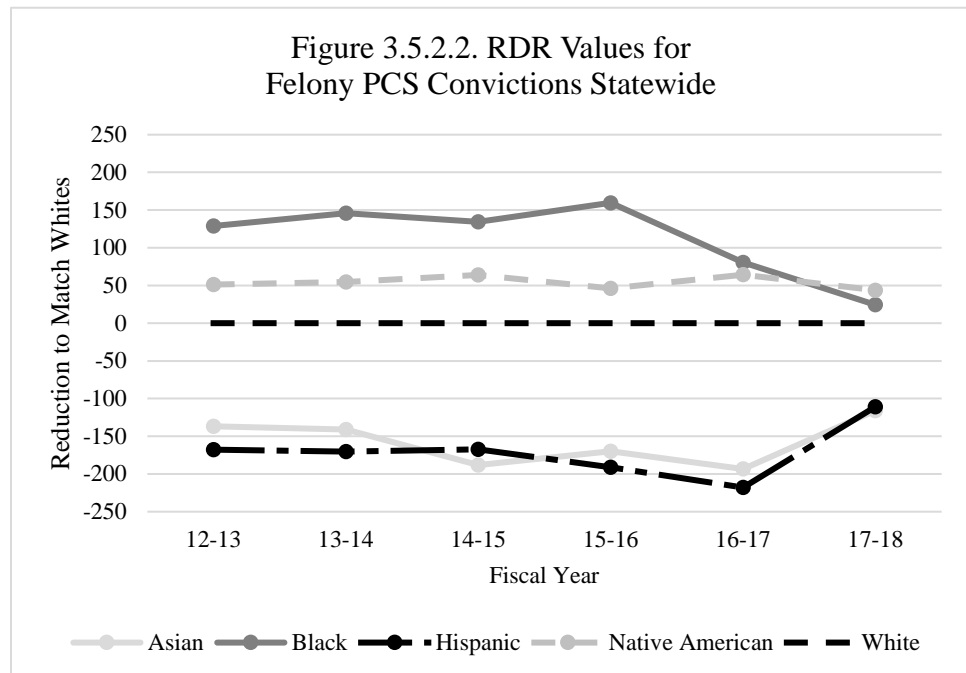
Figure 3.5.2.1<sup>11</sup> reports RDR values for arrests by race statewide. As stated above, the RDR for Whites was zero and was the baseline target for all other racial groups (thus, lines trending toward zero represent a reduction in disparities). As shown in Figure 3.5.2.1, there was a clear and significant disparity in PCS arrests for



<sup>11</sup> Tables displaying full RDR metrics as well as counts of arrest/convictions by race for each year during the study period are included in Appendix A.

Blacks compared to Whites. In fact, during the entire study period there would have to be a statewide reduction of over 400 Black arrests per year on average to bring their arrest rates in line with White arrest rates. This disparity remained relatively consistent throughout the study period, although there was a slight reduction following the 2014-2015 fiscal year before a slight increase in 2017-2018. In addition to Blacks, Native American data also demonstrated a disparity relative to Whites, although it was much smaller. Specifically, for Native Americans, an average yearly reduction of around 100 arrests would be needed to reach parity with Whites. Unlike Blacks and Native Americans, Figure 3.5.2.1 reports that Hispanics and Asians were both underrepresented relative to Whites. In all, Figure 3.5.2.1 indicates that HB 2355 had little effect on disparities for arrests statewide, as the most recent data shows only a slight reduction in disparities for Native Americans, Hispanics, and Asians, as well as a concerning increase, albeit slight, in the disparity for Blacks.

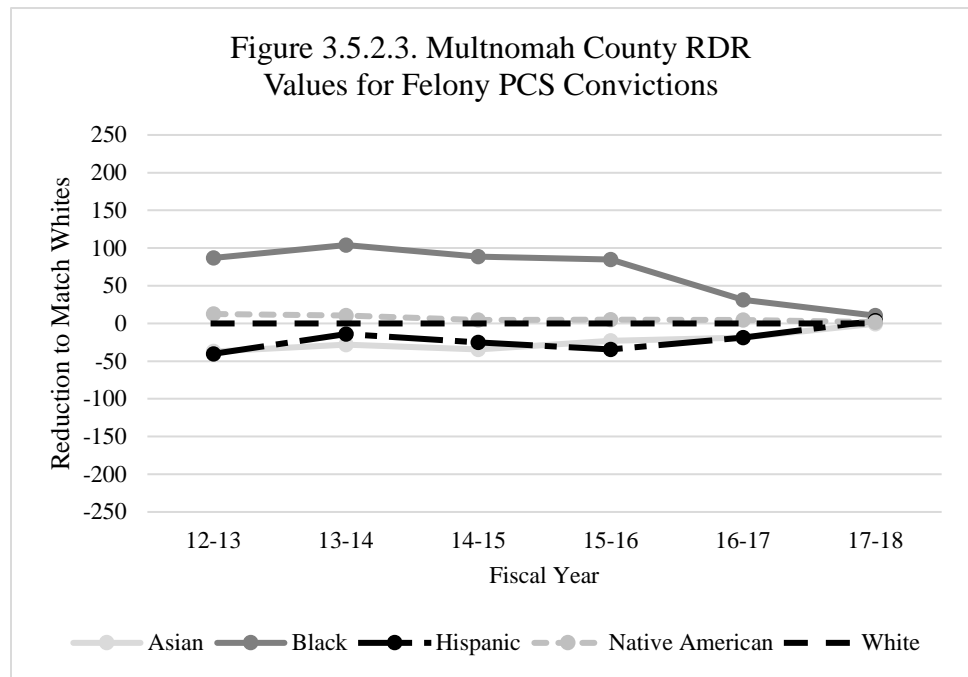
Figure 3.5.2.2 reports RDR values for felony convictions (including yet to be completed conditional discharge cases) statewide by race for the study period. Similar to arrests, Blacks and Native Americans were overrepresented compared to Whites for felony PCS convictions. Hispanics and Asians, on the other hand, were again found to be underrepresented



compared to Whites. Departing from the patterns reported for arrests, however, Figure 3.5.2.2 demonstrates that significant changes have occurred over time for felony PCS convictions. For Blacks, the felony conviction disparity fell over the past two fiscal years. More specifically, in 2015-2016 a reduction of 160 Black convictions would have been required to match White felony conviction rates. In the most recent fiscal year, however, a reduction of only 24 Black convictions would have been needed to reach parity with White rates. This translated to an 85 percent reduction in the disparity between Blacks and Whites during this period. For Native Americans, the RDR value was much more consistent over time, peaking in 2016-2017 before falling to a level more in line with past fiscal years. As of 2017-2018, a reduction of almost 44 felony PCS convictions would be required for Native Americans to reach rates comparable to their White counterparts. For Hispanics and Asians, Figure 3.5.2 demonstrates the degree to which members of these groups were underrepresented compared to Whites. What was notable, however, was the degree to which the trend lines for these two groups began to converge and moved closer to the White baseline. Indeed, the trend among all races since HB 2355 became effective has been toward the White baseline, which indicated disparities have fallen.

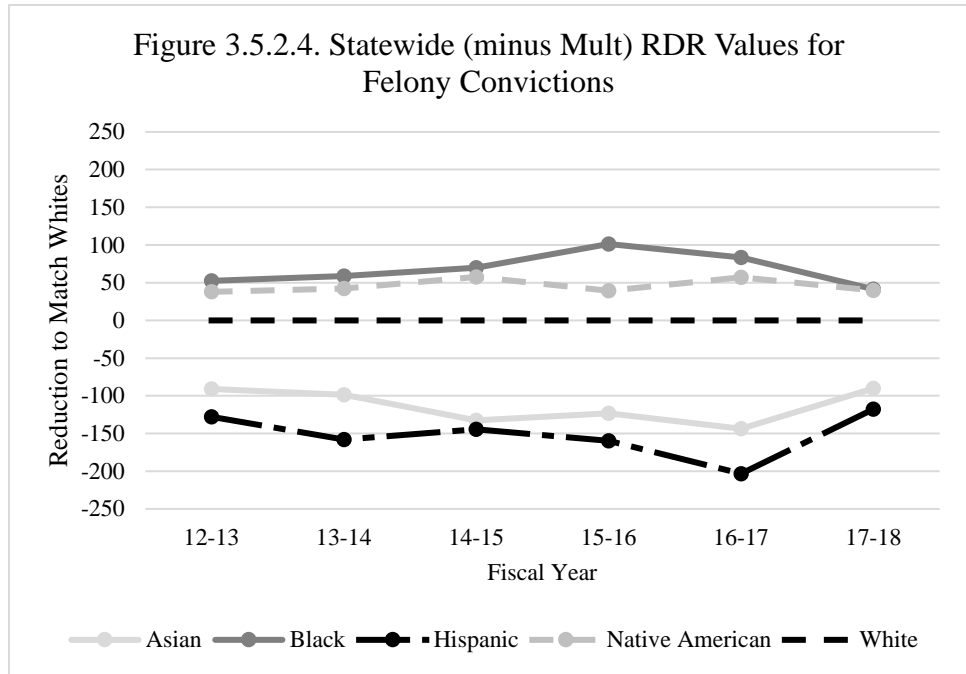
Figure 3.5.2.3 presents data on RDR values for felony PCS convictions (including yet to be completed conditional discharge cases) in Multnomah County. Consistent with prior findings reported throughout this section, Blacks and Native Americans were overrepresented in felony PCS convictions while Asians and Hispanics were underrepresented compared to Whites. Similar to the trend reported above, Multnomah County has also seen a reduction in disparities over the study period. Unlike the statewide RDR trends, however, Multnomah appears to have made more progress in reducing disparities. As shown in Figure 3.5.2.3, the RDR values for each racial group have been approaching zero, which was the White baseline. Indeed, in the most recent fiscal year, Blacks were overrepresented by 10 individuals, which means that a reduction of only 10 convictions would be needed to reach parity with Whites. Similarly, the disparity for Native Americans fell to just under two. Interestingly, for Hispanics, the general trend of underrepresentation was present for nearly the entire study period before becoming positive in 2017-2018. This indicates that Hispanics were more slightly overrepresented in the final fiscal year, as their RDR value of four indicated that a slight reduction in Hispanic PCS convictions would be needed to reach parity with Whites. Finally, for Asians, the RDR was essentially zero, which indicates that there was no disparity compared to Whites for felony PCS.

While the RDR is a metric that performs well when numbers are small, it is still affected by extremely small values. As discussed above, in Multnomah County the number of individuals convicted of felony PCS has fallen substantially to only 44 in 2017-2018. When disaggregated by race, this means that only two Asians, twelve Blacks, seven Hispanics, two Native Americans, and



twenty-one Whites were convicted of felony PCS. Thus, the reduction in disparities was due, in large part, to reductions in the number of felony PCS convictions in the county. This, however, should not obscure the fact that the reductions in felony convictions in Multnomah County have substantially reduced the magnitude of the human impact on racial inequality on those who would otherwise have been convicted of felonies in the past.

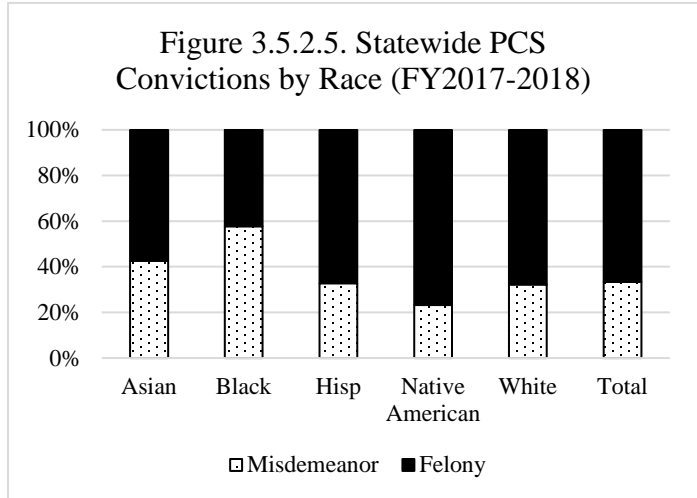
It was possible that the overall statewide RDR values were biased downward by the significant reduction in RDR values in Multnomah County. To examine the possibility that the statewide RDR values presented previously could simply reflect the Multnomah reductions, Figure 3.5.2.4 reports the statewide RDR values for felony convictions (including yet to be completed conditional



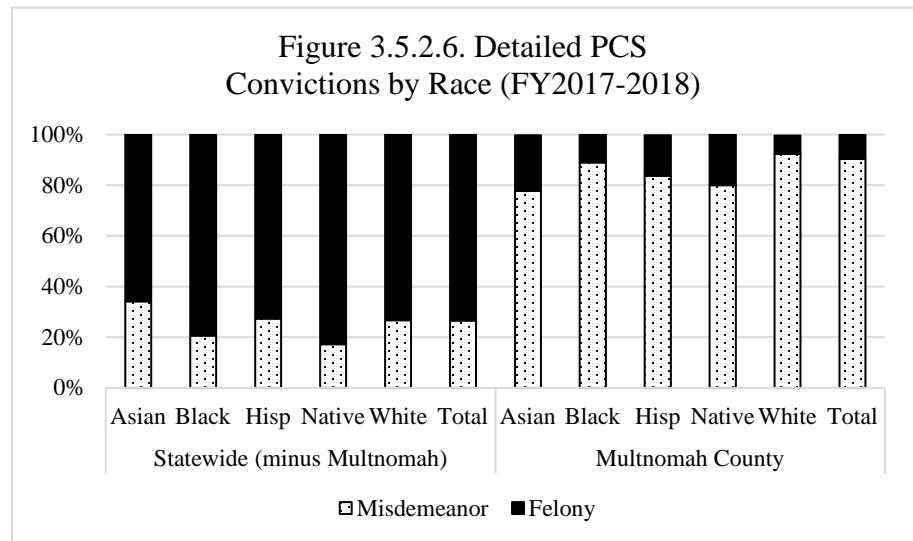
discharge cases) minus those from Multnomah County. Clearly, the trends in Figure 3.5.2.4 demonstrate that the statewide improvement in racial disparities, were not all attributable to the changes reported in Multnomah County. Indeed, the RDR values for Blacks and Native Americans fell by 50 and 30 percent, respectively from 2016-2017 to 2017-2018. In real terms, during the 2016-2017 fiscal year, Black convictions would have had to have been reduced by 84 to reach parity with Whites. By 2017-2018, that gap shrank to 41. For Native Americans, the overrepresentation stood at 57 individuals in 2016-2017 and fell to 41 in the most recent fiscal year. Finally, concerning Asians and Hispanics, the gap also closed, as the degree to which these groups were underrepresented shrank during the study period as well.

While racial disparities for felony convictions have improved in the most recent fiscal year, the growth of misdemeanor convictions in 2017-2018 could be masking racial disparities of their own which could account for the changes in felony disparities reported above. Put simply, it was possible that past disparities were merely transferred from felony convictions to misdemeanor convictions. Further, it was also important to examine misdemeanor convictions by race because of the manner in which HB 2355 reclassified PCS crimes into the misdemeanor category. As discussed in the background section at the beginning of this report, HB 2355 did not reclassify all instances of PCS to be Class A misdemeanors. The two primary exceptions to this reclassification was (1) if an individual possessed an amount that crossed a narcotic specific threshold, or (2) if the individual has a felony record. The second exception regarding a felony record was seen by some as a possible source of future disparities in misdemeanor convictions due to past disparities in criminal justice interventions that might be disproportionately borne by members of certain racial groups. According to this argument, therefore, it was possible that past patterns of felony convictions could shut out certain groups.

A full examination of racial disparities for misdemeanor convictions at this time, however, is not possible due to the inconsistencies in reporting for misdemeanor convictions prior to the passage of HB 2355.<sup>12</sup> To provide a preliminary examination of the racial breakdown for misdemeanor convictions, Figure 3.5.2.5 reports the share of misdemeanor PCS convictions during the 2017-2018 fiscal year for the entire state. Overall, 33 percent of PCS cases during the most recent fiscal year resulted in misdemeanor convictions. When broken down by race, however, there were significant changes to this pattern. Whites, Native Americans, and Hispanics reported rates similar to those found among the wider population, as for these groups 32, 23, and 33 percent of convictions were misdemeanors, respectively. Asian and Black individuals, however, were found in the misdemeanor groups at higher percentages. Specifically, 43 percent of Asian convictions were classified as misdemeanors, while 58 percent of Black convictions were classified as such. This indicates that non-white individuals may have benefitted from the changes enacted by HB 2355 at an equal or better rate than Whites, at least during the most recent fiscal year. Importantly, this initial pattern provided evidence contrary to the hypothesis that members of historically disadvantaged non-White groups would be prevented from taking advantage of the reforms enacted by HB 2355.



It was necessary to examine the racial distribution patterns of Multnomah County separately, however, to properly assess the racial distribution of the misdemeanor reclassification. Figure 3.5.2.6 disaggregates the data, reporting the racial breakdown for misdemeanor convictions for Multnomah County as well as the remainder of



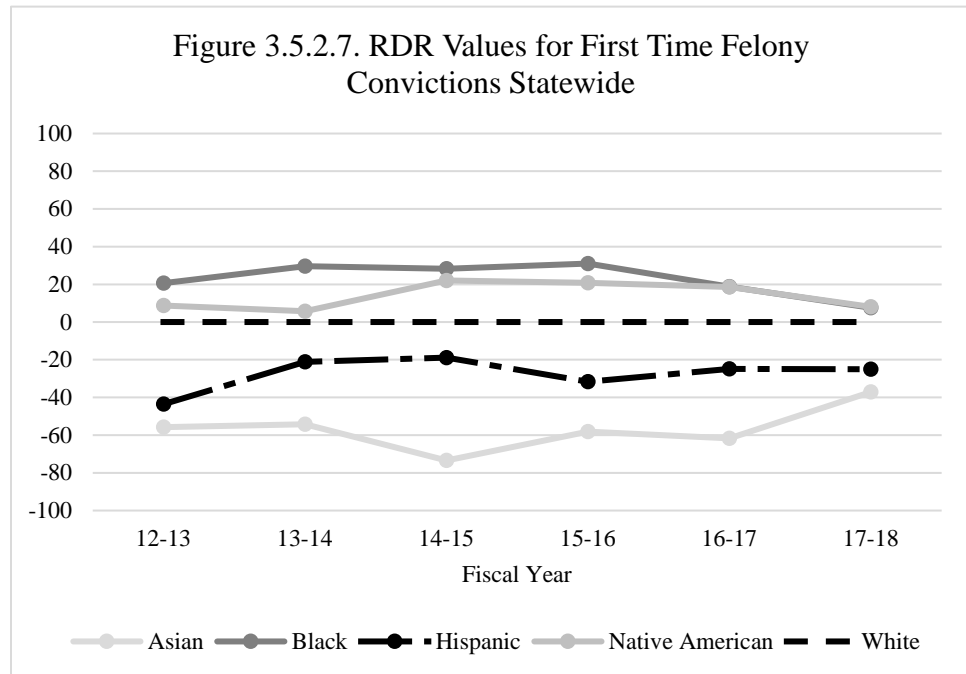
the state in 2017-2018. At the state level, once Multnomah was removed, it appeared all racial groups benefitted from the effects of HB 2355 at similar rates. Whites and Hispanics, for instance, were convicted of misdemeanors in 27 percent of PCS cases, while Blacks and Natives were convicted of misdemeanors in at slightly lower rates of 21 and 17 percent, respectively. Data for Multnomah County, however, looked completely different, as all racial groups were convicted of misdemeanor PCS in the vast

<sup>12</sup> In the future, the CJC will examine RDR metrics for misdemeanor convictions once reliable data for more than single fiscal year has been collected.

majority of cases. Indeed, Asians had the lowest misdemeanor rate of 78 percent, while all other groups were in the 80s or above, with Whites being convicted of misdemeanors over 90 percent of the time. This indicates that patterns at the aggregate statewide level were driven by Multnomah’s high misdemeanor rate, which averaged out with the relatively low misdemeanor rate found across the rest of the state.

Finally, while the initial data indicates that there was little, if any, racial disparity for the application of misdemeanors under the new HB 2355 regime, it was also necessary to examine first time felonies to determine the extent to which disparities remain for this subgroup as well.

Figure 3.5.2.7 reports RDR values for first time felony drug PCS convictions.<sup>13</sup> Similar to the patterns



reported in the preceding tables, Blacks and Native Americans were overrepresented among first time felons while Asians and Hispanics were underrepresented relative to Whites. The magnitude of these differences was relatively low throughout the entire study period, however, at least compared to those reported for arrests and felony convictions a whole. Furthermore, for nearly all racial groups disparities have gotten closer to zero, which indicates that disparities, to the extent they existed, have been improving for first time felons since HB 2355 became effective.

To summarize, the effects of the changes brought into effect by HB 2355 with regards to racial disparities have been mixed. Concerning arrests, HB 2355 has had little to no discernable effect. Black Oregonians remain overrepresented compared to Whites and while Native Americans experienced a slight decrease in arrests in the most recent fiscal year, the 2017-2018 disparity merely falls in line with historical trends. For felony PCS convictions, however, HB 2355 appears to have had significant impacts on racial disparities. First, statewide, felony PCS convictions fell for all racial groups following the enactment of HB 2355. Accompanying this downward trend has been a reduction in racial disparities as well, which was particularly pronounced for Blacks. Second, when the statewide numbers were examined after removing Multnomah County, the data demonstrated that disparity reductions outside of Oregon’s largest county were robust and significant. Third, the data demonstrated that the most significant reductions in racial disparities were in Multnomah County, as disparities for non-Whites largely converged with White conviction rates. In all, therefore, the evidence suggests that one effect of HB 2355 has been the

<sup>13</sup> There were no significant differences in first time felony trends when Multnomah County was examined separately (results available upon request).



significant reduction in racial disparities for felony PCS convictions, both throughout the state and within Multnomah County in particular.

### 3.6. Other Effects of HB 2355

While the analyses presented in the preceding sections provided insight into the initial changes the PCS landscape brought about by HB 2355, one important question that remains is whether the reclassification of a large number of felony cases will have a positive long-term effect on the Oregon criminal justice system and for the Oregonians convicted of violating PCS laws. As discussed previously, the CJC was unable to assess recidivism as of this time, although in coming years a comparison of recidivism rates for individuals convicted of felony PCS versus misdemeanor PCS should provide insight into the degree to which the changes enacted via HB 2355 have been positive or negative. In addition, it will be possible to compare other outcomes for individuals in these different classifications as well. In the future, the CJC will conduct these analyses, presenting the findings through formal written reports and via its website dashboards.

Beyond the direct effects attributable to HB 2355, it is possible that other latent effects could also be occurring. Both internally and through conversations with stakeholders, CJC has identified several possible latent effects that could be attributable to the law change. For some of these possible effects, the CJC was able to examine data trends to determine the extent to which hypothesized changes were occurring or have occurred since HB 2355 was implemented. For others, unfortunately, it is too early to tell whether effects are occurring on the ground. These latent effects will be examined briefly throughout this section of the report.

One potential effect identified through discussions was a possible impact on arrests and convictions for felony drug delivery brought about by the changes in HB 2355. Specifically, it was hypothesized that in the past, some convictions for drug PCS may have resulted from plea deals made with individuals originally charged with drug delivery. Thus, it is possible that convictions for drug delivery could increase in the wake of the HB 2355 given that there likely would be a reluctance on the part of prosecutors to plea down a defendant charged with drug delivery to a misdemeanor PCS. The CJC examined this hypothesis and found no basis to support it in the data. Contrary to the central prediction of this hypothesis, convictions trends in all types of drug delivery have fallen in recent years (results available upon request).

Other potential latent effects have been identified, yet cannot be fully studied at this time. First, some stakeholders have suggested the reclassification scheme found in HB 2355 could negatively impact drug courts by reducing enrollments in drug court programs across the state. As of this early stage, the CJC, as the largest funder of drug courts in the state, has yet to see any negative effect on drug courts in the state, whether through closures, steep enrollment declines, or other negative outcomes. Further, given that the changes made via HB 2355 will likely shift the focus from individuals classified as low-risk/need to moderate- and high-risk/need, any changes in the drug court population should actually be a step in the right direction, as best practices suggest that the drug court shall target individuals classified as moderate-risk/need to high-risk need.<sup>14</sup> To truly answer these questions, however, more time and data are needed.

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<sup>14</sup> \**“High risk”* means an individual is assessed as being at substantial risk for reoffending or failing to complete a less-intensive disposition, such as standard probation or pretrial supervision. *“High need”* means an individual is assessed as having a compulsion to use or an inability to abstain from alcohol or other drugs, impairment in

Moving forward, the CJC is tracking the information necessary to examine these questions and will do so at a future date.

Second, stakeholders have hypothesized that drug use and abuse by young Oregonians could increase due to HB 2355. This could be caused by both the reduced deterrent effect attributed to the defelonization of many instances of PCS as well as the message sent by the reclassification of many instances of drug PCS to misdemeanors. At this time, however, it is much too early to assess whether rates of use and abuse at any age range have occurred. In the future, this important issue could be assessed by examining trends from public health surveys, as well as by monitoring arrest rates by age.

#### 4. Methodology

The majority of the analyses contained in this report consist of tables and figures built from bivariate cross tabulations of data drawn from LEDS and the Oregon DOC. Back up documentation and tables of the data underlying all figures are available upon request.

To calculate the raw differential representation (RDR) metric, the CJC followed the approach outlined by Girvan, McIntosh, and Smolkowski (2018). The formula for computing the RDR takes the following form:

$$A_K = \frac{A_K}{RR_{W-K}}$$

where  $A_K$  represents the number of arrests or convictions for minority group  $K$ , and  $RR_{W-K}$  represents the risk ratio for Whites compared to minority group  $K$ . The risk ratio formula takes the following form:

$$RR_{W-K} = \frac{\frac{A_K}{Pop_K}}{\frac{A_W}{Pop_W}}$$

Where  $A_K$  represents the number of arrests or convictions for minority group  $K$ ,  $A_W$  represents the number of arrests or convictions for Whites,  $Pop_K$  is the total population count for minority group  $K$  and  $Pop_W$  is the total White population.

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behavioral control, craving, diminished recognition of significant problems with one's behavior and interpersonal relationships, and a dysfunctional emotional response. (Adult Drug Court Best Practice Standards, Vol. I, p. 5).

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**Appendix A**

**Table A.1 Drug PCS Arrest Counts and Raw Differential Representation Metrics by Race Statewide (including Multnomah County)**

<b>Race</b>	<b>2012-2013</b>	<b>2013-2014</b>	<b>2014-2015</b>	<b>2015-2016</b>	<b>2016-2017</b>	<b>2017-2018</b>
<i>Asian</i>						
Count	117	121	95	97	112	103
RDR	(-256)	(-301)	(-328)	(-350)	(-379)	(-306)
<i>Black</i>						
Count	560	699	678	567	561	559
RDR	(393)	(512)	(493)	(373)	(351)	(385)
<i>Hispanic</i>						
Count	809	891	882	955	1,109	905
RDR	(-349)	(-408)	(-395)	(-374)	(-324)	(-277)
<i>Native Am.</i>						
Count	207	200	243	204	251	172
RDR	(99)	(81)	(128)	(86)	(126)	(71)
<i>White</i>						
Count	7,452	8,199	7,907	8,065	8,515	6,860
<b>Total</b>	<b>9,145</b>	<b>10,110</b>	<b>9,805</b>	<b>9,888</b>	<b>10,548</b>	<b>8,599</b>

**Table A.2 Felony Drug PCS Conviction Counts and Raw Differential Representation Metrics by Race Statewide (including Multnomah County)**

<b>Race</b>	<b>2012-2013</b>	<b>2013-2014</b>	<b>2014-2015</b>	<b>2015-2016</b>	<b>2016-2017</b>	<b>2017-2018</b>
<i>Asian</i>						
Count	53	78	51	73	53	27
RDR	(-137)	(-141)	(-188)	(-170)	(-193)	(-116)
<i>Black</i>						
Count	214	243	239	265	186	85
RDR	(129)	(146)	(134)	(160)	(80)	(24)
<i>Hispanic</i>						
Count	422	503	554	530	502	302
RDR	(-167)	(-170)	(-167)	(-191)	(-218)	(-111)
<i>Native Am.</i>						
Count	106	116	129	110	127	79
RDR	(51)	(54)	(64)	(46)	(64)	(44)
<i>White</i>						
Count	3,794	4,252	4,468	4,377	4,277	2,396
<b>Total</b>	<b>4,589</b>	<b>5,192</b>	<b>5,441</b>	<b>5,355</b>	<b>5,145</b>	<b>2,889</b>

**Table A.3 Felony Drug PCS Conviction Counts and Raw Differential Representation Metrics by Race for Multnomah County**

<b>Race</b>	<b>2012-2013</b>	<b>2013-2014</b>	<b>2014-2015</b>	<b>2015-2016</b>	<b>2016-2017</b>	<b>2017-2018</b>
<i>Asian</i>						
Count	12	21	9	17	8	2
RDR	(-37)	(-28)	(-35)	(-23)	(-19)	(0)
<i>Black</i>						
Count	126	142	122	115	51	12
RDR	(87)	(104)	(89)	(85)	(31)	(10)
<i>Hispanic</i>						
Count	39	64	43	27	22	7
RDR	(-70)	(-13)	(-25)	(-35)	(-19)	(4)
<i>Native Am.</i>						
Count	18	16	9	9	7	2
RDR	(13)	(11)	(4)	(5)	(4)	(2)
<i>White</i>						
Count	521	505	437	388	252	21
<b>Total</b>	<b>716</b>	<b>748</b>	<b>620</b>	<b>556</b>	<b>340</b>	<b>44</b>

**Table A.4 Felony Drug PCS Conviction Counts and Raw Differential Representation Metrics by Race Statewide (excluding Multnomah County)**

<b>Race</b>	<b>2012-2013</b>	<b>2013-2014</b>	<b>2014-2015</b>	<b>2015-2016</b>	<b>2016-2017</b>	<b>2017-2018</b>
<i>Asian</i>						
Count	41	57	42	56	45	25
RDR	(-91)	(-98)	(-133)	(-123)	(-144)	(-90)
<i>Black</i>						
Count	88	101	117	150	135	73
RDR	(53)	(59)	(70)	(101)	(84)	(41)
<i>Hispanic</i>						
Count	383	439	511	503	480	295
RDR	(-128)	(-158)	(-145)	(-160)	(-203)	(-118)
<i>Native Am.</i>						
Count	88	100	120	101	120	77
RDR	(38)	(42)	(58)	(39)	(57)	(40)
<i>White</i>						
Count	3,273	3,747	4,031	3,989	4,025	2,375
<b>Total</b>	<b>3,873</b>	<b>4,444</b>	<b>4,821</b>	<b>4,799</b>	<b>4,805</b>	<b>2,845</b>

**Table A.5 First Time Felony Drug PCS Conviction Counts and Raw Differential Representation Metrics by Race Statewide (including Multnomah County)**

<b>Race</b>	<b>2012-2013</b>	<b>2013-2014</b>	<b>2014-2015</b>	<b>2015-2016</b>	<b>2016-2017</b>	<b>2017-2018</b>
<i>Asian</i>						
Count	32	39	22	34	30	11
RDR	(-56)	(-54)	(-73)	(-58)	(-62)	(-37)
<i>Black</i>						
Count	60	71	70	71	58	28
RDR	(21)	(30)	(28)	(31)	(19)	(8)
<i>Hispanic</i>						
Count	229	266	269	242	243	114
RDR	(-44)	(-21)	(-19)	(-31)	(-25)	(-25)
<i>Native Am.</i>						
Count	34	32	48	45	42	20
RDR	(9)	(6)	(22)	(21)	(19)	(8)
<i>White</i>						
Count	1,754	1,813	1,783	1,661	1,591	807
<b>Total</b>	<b>2,109</b>	<b>2,221</b>	<b>2,192</b>	<b>2,053</b>	<b>1,964</b>	<b>980</b>