

A New Deal: Misdemeanor Diversion, Alternative Resolution and Seeing It A Different Way

James Gibbons-Shapiro

Supervisor of the Misdemeanor Team

Santa Clara County DA's Office

408-792-2985

The Challenge We Face

- 30,000 Misdemeanors to Prosecute
- Limited Resources (money, jail bed space)
- Jurors Who Think It's A Waste of Time
- A Revolving Door of Criminality
- A New View of Collateral Consequences
- "We've Always Done It This Way"

But We Don't Do Diversion – Really?

- DEJ for H&S 11550 (Under the Influence of Controlled Substance)
- PC 647(f) – Drunk in Public
 - Do you have a sobering center?
 - Do you offer a way to do your sentence with counseling?

Driving on a Suspended License (What had been a fifth of our misdemeanor cases)

- Misdemeanor? Infraction?
- Driving Without a License?
- What are we really trying to do?
And how do we get there?

Petty Thefts (1,200 cases a year):

- What was happening
- What is happening
- Is it better?
 - Resources
 - Collateral Consequences

Recidivism for theft:

- Nationally the numbers are widely variable and it depends on how you count them (22% ? , 50% ?, ???) and who is counting.

Recidivism for theft:

- Our two week snapshot (first two weeks):
 - 66 cases referred to Diversion
 - Overall 66% successfully complete (although some are re-referrals) – a high percentage(?)
 - 6 committed a new crime in the year that followed (9%)
 - 4 of those 6, the new crime was a theft (6%)

Success?

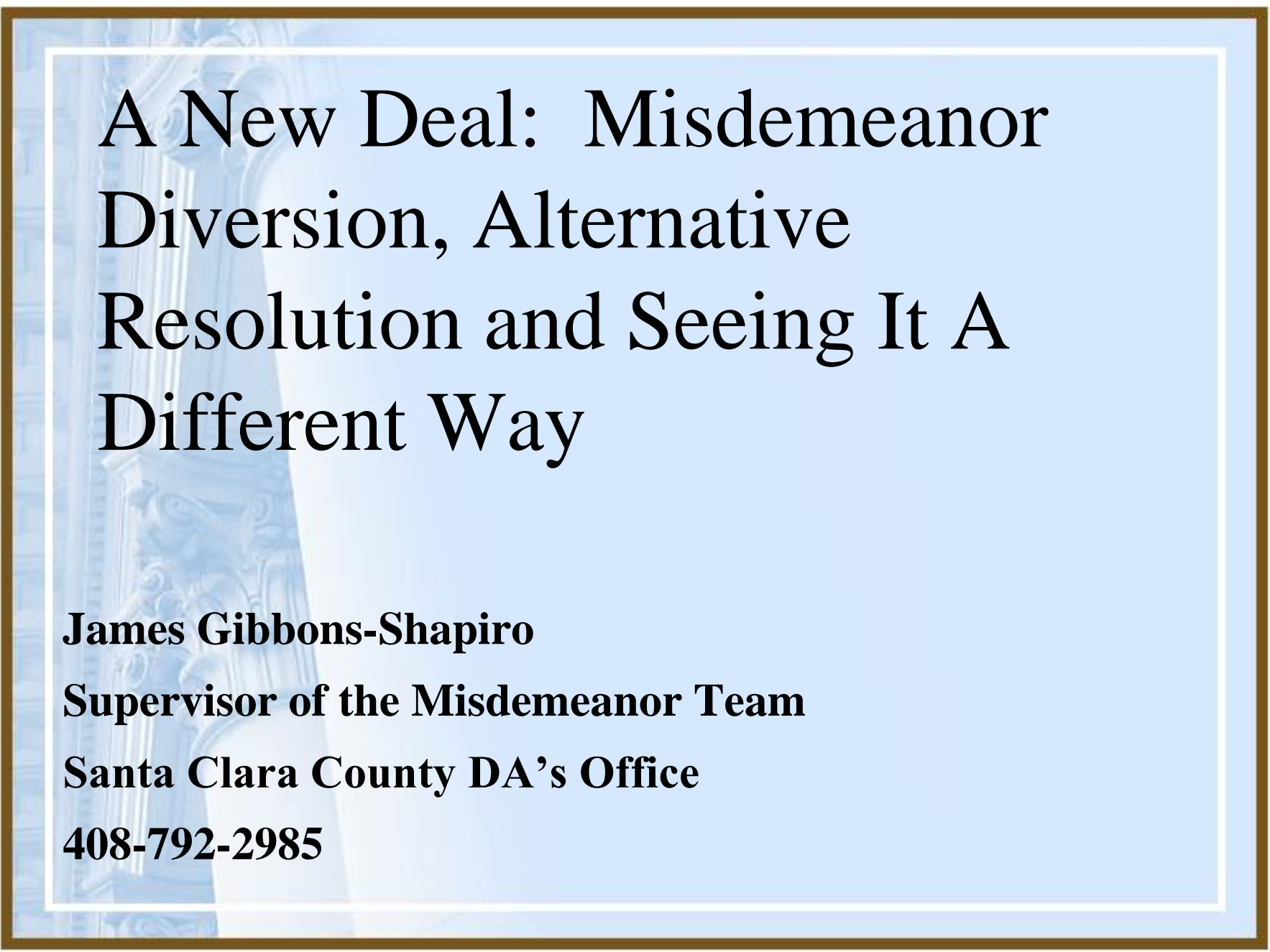
- Pre-Filing Diversion - 66% Completion Rate
- Number of cases “clogging the courts” is down
- Collateral consequences for some addressed in a way that is fair for all
- Would the recidivism rate be different if we did nothing?

Prostitution Enforcement

- What are we doing and why
- Is a jury trial for loitering with the intent to commit prostitution the best way to get there?
- How else can we?

Challenges

- **Is it reducing crime? Or not increasing it?**
- **Are the hidden costs worth it?**
 - We thought we were shipping all costs to a third party vendor
 - We, of course, were adding additional tasks to our overworked staff
- **How do we get the address right?**
- **Is it really fair?**



A New Deal: Misdemeanor Diversion, Alternative Resolution and Seeing It A Different Way

James Gibbons-Shapiro

Supervisor of the Misdemeanor Team

Santa Clara County DA's Office

408-792-2985