

jps <jps@jpscanlan.com>

1/11/2021 4:53 PM

RE: CEBCP/WestEd Jan. 12 disparities mitigation program

To Cynthia Lum <clum@gmu.edu> • apetros@wested.org <apetros@wested.org> • engelrs@ucmail.uc.edu <engelrs@ucmail.uc.edu> • lfridell@usf.edu <lfridell@usf.edu> • tracey.meares@yale.edu <tracey.meares@yale.edu>

Dear Professor Lum,

Thanks for the note. But your reference to effects on disparities seems to reflect the failure to recognize that different measures of disparity frequently provide different interpretations as to whether policies increased or decreased disparities or that none of the standard measures alone can provide useful information with regard to how a policy affected differences in the circumstances of advantaged and disadvantaged groups.

Police training is an important example. If the training reduce police office bias, it will reduce all measures of racial disparity. But if the same training makes police more circumspect about the use of force, that will tend to increase relative racial differences in rates at which persons interacting with police are subjected to the use of force while reducing relative racial differences in rates at which such persons are not subjected to the use of force. We can only determine whether the training had any effect on officer bias while examining the result with a recognition of the extent to which the general reduction in the use of force tends to increase relative racial differences in the use of force. That relative difference in the use of force increased does not mean that the training backfired any more than the fact that relative racial differences in the avoidance of force decreased means that biased was reduced.

The same issues apply to the appraisal of a particular officer's or agency's conduct. Is a comparatively large relative racial difference in some adverse outcome in whole or in part a function an officer's or agency's comparatively infrequent resort to the imposition of that outcome or is it in whole or in part the result of comparatively large level of bias on the part of the officer or agency?

As reflected in references 8 to 10, neither with regard to demographic differences in health and healthcare, school discipline, criminal justice, or anything else has there ever been a sound effort to determine whether the strength of the forces causing the rates of advantaged and disadvantaged groups to differ have increased or decreased over time – and hence whether particular policies tend to increase or decrease those forces – because none of the research has been conducted with an understanding of the way the measures tend to change solely because the prevalence of an outcome changes. Criminal justice, school discipline, and lending are areas where, to a somewhat greater extent than other areas research, does not simply fail to reflect an understanding of the ways measures tend to be affected by the prevalence of an outcome, but is commonly informed by a belief about the effects of reducing the prevalence of an outcome on measures of racial disparity that is the opposite of reality.

In my view, any useful encouragement of research and discussion about the effects of policies or difference in the circumstances of advantaged and disadvantaged groups must begin with emphasizing that researchers and discussants must understand the ways measures of disparity tend be affected by the prevalence of an outcome. In any case, most or all viewers of the webinar will likely share the mistaken view that generally reducing adverse outcomes tends to reduce relative racial differences in rates of experiencing the outcome. It would be most useful if they are made at least to recognize that the opposite is the case before they devote time and other resources to the studying the effects of policies on measures of racial disparity.

Regards,

Jim Scanlan

On January 11, 2021 3:15 PM Cynthia Lum <clum@gmu.edu> wrote:

Thanks Mr. Scanlan for sending this information.

One of the purposes of this discussion will be to encourage more research and discussion on the issue of training and its impacts on disparities. As you mention, interventions could backfire and increase disparities in policing. Unfortunately, it isn't clear at the moment with regard to policing research how existing training impacts disparities. Our goal is to have a discussion about this and to encourage continued research and discourse in this area, not to advocate that these training activities definitively reduce disparities.

Best,
Cynthia

Cynthia Lum, Ph.D.
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From: jps <jps@jpscanlan.com>
Sent: Monday, January 11, 2021 3:06 PM
To: Cynthia Lum <clum@gmu.edu>; apetros@wested.org; engelrs@ucmail.uc.edu; lfridell@usf.edu; tracey.meares@yale.edu
Subject: Fwd: CEBCP/WestEd Jan. 12 disparities mitigation program

Dear participants in the January 12, 2021 GMU Center for Evidence-Based Crime Policy (CEBPC) and the WestEd Justice and Prevention Research Center (WEJPRC) online conversation titled "Mitigating Racial and Ethnic Disparities in the Criminal Justice System:

This follows on the forwarded noted where I advised the contrary to the belief underlying most discussions of the effects of policies on measures of racial disparity in criminal justice outcomes, generally reducing adverse criminal justice outcomes tends to increase (a) relative racial differences in rates of experiencing the outcomes and (b) the proportion blacks make up of persons experiencing the outcomes.

Reference 1 after the signature is a recently-created web page using data from reference 2 to show that relaxing the standards for release of a criminal defendant will tend to increase relative racial differences in rates of being incarcerated (while reducing relative racial differences in rates of being granted release) and increase the proportion blacks make up of persons incarcerated (while also increasing the proportion blacks make up of persons granted release).

Table 1, for example, shows that among persons in the sample, if only persons in the lowest risk level are released, the ratio of the black incarceration rate to the white incarceration rate would be 1.25 and the proportion blacks make up of persons incarcerated would be 65.32%. But if all persons but those in the highest risk level are released, the ratio of the black incarceration rate to the white incarceration rate would be 2.88 and the proportion blacks make up of persons incarcerated would be 81.33%. As suggested in my earlier note, it is difficult to discuss effects of policies on racial disparities while believing policies will reduce measures of racial disparity when the policies in fact tend to increase those measures.

Sincerely,

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1. Recidivism Illustration subpage of the Scanlan's Rule page of [jpscanlan.com](http://www.jpscanlan.com)

<http://www.jpscanlan.com/scanlansrule/recidivismillustration.html>

2. Jeff Larsen et al., "How We Analyzed the COMPASS Recidivism Algorithm," ProPublica (May 23, 2016)

<https://www.propublica.org/article/how-we-analyzed-the-compas-recidivism-algorithm>

----- Original Message -----

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Date: December 23, 2020 3:37 PM

Subject: CEBCP/WestEd Jan. 12 disparities mitigation program

Dear participants in the January 12, 2021 GMU Center for Evidence-Based Crime Policy (CEBPC) and the WestEd Justice and Prevention Research Center (WEJPRC) online conversation titled "Mitigating Racial and Ethnic Disparities in the Criminal Justice System:

A WEJPRC alerted me to the referenced event. Time permitting, I may write the sponsoring organizations a more formal letter of the type collected in reference 1 addressing certain misunderstandings about the effects of policies on measures or racial disparity. In the meantime, I want to bring to the participants attention the following:

Virtually all discussion of the effects of policies on measures of racial disparity in criminal justice outcomes are informed by the mistaken belief that generally reducing adverse criminal justice outcomes will tend to reduce (a) relative racial differences in rates of experiencing those outcomes and (b) the proportion blacks make up of persons experiencing the outcomes. In fact, generally reducing the outcomes tends to increase both (a) and (b). See, e.g., references 2 to 7. References 8 and 9 explain the underlying statistical issues more fully. Reference 10, a workshop given at GMU in 2014, provides many graphical and tabular illustrations of the statistical issues as do like workshops given at University of Massachusetts Medical School (2015), UC Irvine (2015), University of Maryland (2014), University Minnesota (2014), University of Kansas School of Law (2013), Harvard (2012), American University (2012) available in reference 11.

There is very little insight scholars can bring to the discussion of the effects of policies on measures of racial disparity in adverse criminal justice (or any other) outcome, while mistakenly believing reducing adverse outcomes will tend to reduce (a) and (b) for the outcomes. But, with a full understanding of the statistical issues, scholars can provide great insight into an important, but woefully misunderstood, subject.

While countless datasets illustrate the patterns I describe, many people (including most statisticians) seem to find this matter difficult to understand. Thus, you may find it useful to discuss the issues with the following persons:

Professor Engels' colleague John Paul Wright is familiar with the issues. WEJPRC's Trevor Fronius has indicated a familiarity with the issue. The authors of reference 12 are University of Oregon scholars affiliated with Positive Behavioral Interventions and Supports community and with whose work many at WestEd should be very familiar. That paper reflects the first recognition by scholars in the PBIS community that, contrary to what that community and WestEd have long been leading the public and the Department of Education to believe, generally reducing public school suspensions will tend to increase relative racial differences in suspension rates. Exactly the same statistical patterns are involved in criminal justice issues.

Also, the Appendix to reference 2 is highly critical of the Georgetown University's Center for Juvenile Justice Reform for leading participants in its RED Disparities Reduction program to believe that diversion programs will tend to reduce, rather than increase, relative racial differences in incarceration rates. In correspondence Shay Bilchik, founder and director emeritus of the program, argued that diversion programs nevertheless are very useful. But he did not contest my claim that in fact diversion programs tend to increase, rather than reduce, relative difference in incarceration rates.

I can understand Mr. Bilchik's point. Further, as with public school suspensions, generally reducing adverse criminal justice outcomes will tend to reduce absolute differences between black and white incarceration rates. Nevertheless, there are great harms in leading the public (and program participants) to believe that policies will tend to reduce measures of racial disparity when in fact they will tend to increase those measures. In any case, Mr. Bilchik may provide useful information on the subject

Finally, GMU has been a significant leader in the promotion of statistical literacy through the work of Professor Rebecca Goldin and others associated with the STATS component of senseaboutscience.org. Whether Professor Goldin or other GMU faculty associated with the organization currently understands this issue, most such persons are fully capable of understanding the issue and explaining it to CEBPC.

I am not sure whether I will send the sponsoring entities a formal letter before the January 12 event. Such letter would likely be similar in many respects to the following letters collected in reference 1: Justice Research and Statistics Association (Feb. 18, 2020), Coalition for Juvenile Justice (Nov. 27, 2018), National Center for Juvenile Justice (Nov. 19, 2018), University of Maryland Department of Criminology and Criminal Justice (June 13, 2018), Department of Justice (Apr. 13, 2017), Honorable James K. Bredar (Feb. 14, 2017), City of Madison, Wisconsin (Mar. 12, 2016), City of Boulder, Colorado (Mar. 5, 2016), City of Minneapolis, Minnesota (June 8, 2015).

I could not find an email address for Deputy Chief Tarrick McGuire. So I would appreciate it if Professor Lum would forward this note to Mr. Tarrick.

Sincerely,

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1. Measurement Letters page of jpscanlan.com

<http://www.jpscanlan.com/measurementletters.html>

2. "Usual, But Wholly Misunderstood, Effects of Policies on Measures of Racial Disparity Now Being Seen in Ferguson and the UK and Soon to Be Seen in Baltimore," Federalist Society Blog (Dec. 4, 2019)

<https://fedsoc.org/commentary/blog-posts/usual-but-wholly-misunderstood-effects-of-policies-on-measures-of-racial-disparity-now-being-seen-in-ferguson-and-the-uk-and-soon-to-be-seen-in-baltimore>

3. "United States Exports Its Most Profound Ignorance About Racial Disparities to the United Kingdom," Federalist Society Blog (Nov. 2, 2017)

<https://fedsoc.org/commentary/blog-posts/united-states-exports-its-most-profound-ignorance-about-racial-disparities-to-the-united-kingdom>

4. "The Pernicious Misunderstanding of Effects or Policies on Racial Differences in Criminal Justice Outcomes," Federalist Society Blog (Oct. 12, 2017)

<https://fedsoc.org/commentary/blog-posts/the-pernicious-misunderstanding-of-effects-of-policies-on-racial-differences-in-criminal-justice-outcomes>

5. "Compliance Nightmare Looms for Baltimore Police Department," Federalist Society Blog (Feb. 8, 2017) <https://fedsoc.org/commentary/fedsoc-blog/compliance-nightmare-looms-for-baltimore-police-department>
6. "The misunderstood effects of the Baltimore police consent decree," *Daily Record* (Feb. 15, 2018)

<http://thedailyrecord.com/2018/02/15/baltimore-consent-decree-police-data-minorities-crime/>

http://jpscanlan.com/images/Misunderstood_effects_of_Baltimore_police_consent_decree_Feb._16,_2018_.pdf

7. "Mired in Numbers," *Legal Times* (Oct. 12, 1996)

http://jpscanlan.com/images/Mired_in_Numbers.pdf

8. "Race and Mortality Revisited," *Society* (July/Aug. 2014)

<http://link.springer.com/article/10.1007%2Fs12115-014-9790-1#page-1>

9. Comments of J. Scanlan for Commission on Evidence-Based Policymaking (Nov. 14, 2016)

<https://www.regulations.gov/document?D=USBC-2016-0003-0135>

10. "The Mismeasure of Demographic Differences in Outcome Rates," Methods Workshop at Public Sociology Association of George Mason University, October 18, 2014.

Abstract: http://jpscanlan.com/images/George_Mason_Sociology_Abstract.pdf

Presentation: http://jpscanlan.com/images/George_Mason_University_Workshop_Oct_18_2014_.pdf

11. <http://jpscanlan.com/measuringhealthdisp/mhdbconfpresentations.html>
12. Erik J. Girvan, Kent McIntosh & Keith Smolkowski (2019): Tail, Tusk, and

Trunk: What Different Metrics Reveal About Racial Disproportionality in School Discipline, Educational Psychologist.

<https://doi.org/10.1080/00461520.2018.1537125>