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ELECTRONICALLY TRANSMITTED

The Honorable Paul R. Soglin, Mayor
Michael C. Koval, Chief of Police
Members of the City Council
City of Madison, Wisconsin
Madison City Hall
210 Martin Luther King, Jr. Blvd.
Madison, Wisconsin 53703

Re: Misperceptions Regarding Relationship Between Police Practices and
Racial Disproportionality in Arrests

Dear Mayor Soglin, Chief Koval, and Members of the Madison City Council:

An August 31, 2015 *Wisconsin State Journal* article titled “[Analysis: Blacks in Madison arrested at more than 10 times the rate of whites](#)”¹ alerted me to recent attention to racial disparities in arrests in the City of Madison. The article included a characterization of a statement by Police Chief Michael Koval to the effect that “he supports efforts to reform aspects of the criminal justice system that disproportionately burden people of color as one way to reduce the city’s black arrest rate.” The statement of Chief Koval, as characterized by the reporter, reflects the commonly held view – and that underlying a Department of Justice’s March 2015 report on the racial impact of the police court practices of Ferguson, Missouri and the suit the Department filed against Ferguson on February 10, 2016 – that generally reducing arrest rates will tend to reduce (a) the ratio of the African American arrest rate to the white arrest rate and (b) the proportion African Americans make up of persons arrested.²

¹ To facilitate consideration of issues raised in letters such as this I include links to referenced materials in electronic copies of the letters. Electronic copies of letters such as this are available by means of the [Institutional Correspondence](#) subpage of the [Measuring Health Disparities](#) page of jpscanlan.com. In this case, copies of the letter or links to it are being emailed to the addressees.

² The reporter’s characterization of Chief’s Koval’s remarks specifically involved reducing the city’s black arrest rate. Generally reducing arrests will commonly reduce both black and white rates. But presumably, whatever were his precise remarks, Chief Koval was focused on reducing disproportionality (as it is commonly measured) rather than the black arrest rate itself.

The purpose of this letter is to explain that the common understanding regarding the relationship between the frequency of arrests and the size of racial disparities in arrests is the opposite of reality. Generally reducing arrests will tend to increase, not decrease, both (a) the ratio of the African American arrest rate to the white arrest rate and (b) the proportion African Americans make up of persons arrested.

I explain this issue fairly succinctly in a February 22, 2016 article on *The Hill's* Congress Blog titled "[Things DOJ doesn't know about racial disparities in Ferguson](#)," which addresses the matter in the context of the Department of Justice's recent suit against Ferguson. Other succinct treatments of the issue may be found in my "[Things government doesn't know about racial disparities](#)," *The Hill* (Jan. 28, 2014); "[The Paradox of Lowering Standards](#)," *Baltimore Sun* (Aug. 5, 2013); and "[Misunderstanding of Statistics Leads to Misguided Law Enforcement Policies](#)," *Amstat News* (Dec. 2012).

A more comprehensive treatment of this subject may be found in my October 8, 2015 [letter](#) to the [American Statistical Association](#), which, among other things, urges the organization to explain to the federal government that its beliefs regarding the relationship between the frequency of an outcome and standard measures of demographic disproportionality regarding the outcome are incorrect. Table 1 of the letter (at page 11) sets out the data described in each of the above-mentioned articles. Letters to [City of Boulder, Colorado](#) (Mar. 5, 2015), [City of Minneapolis, Minnesota](#) (June 8, 2015), and [United States Department of Justice and City of Ferguson, Missouri](#) (Mar. 9, 2015) explain the issue with a particular focus on police or court practices. A December 23, 2015 letter to Erica Nelson of the [Wisconsin Council on Families and Children's Race to Equity Project](#), who is quoted in the *State Journal* article, explains the issue with respect to a number of Wisconsin disparities issues.³

³ Other recipients of letter of the general nature of the instant letter and the other letters mentioned in the above paragraph include those to the following entities: [Stanford Center on Poverty and Inequality](#) (Mar. 8, 2016), [Houston Independent School District](#) (Jan. 5, 2016), [Boston Lawyers' Committee for Civil Rights and Economic Justice](#) (Nov. 12, 2015), [House Judiciary Committee](#) (Oct. 19, 2015), [Chief Data Scientist of White House OSTP](#) (Sept. 8, 2015), [McKinney, Texas Independent School District](#) (Aug. 31, 2015), [Department of Health and Human Services and Department of Education](#) (Aug. 24, 2015), [Agency for Healthcare Research and Quality](#) (July 1, 2015), [Texas Appleseed](#) (Apr. 7, 2015), [Senate Committee on Health, Education, Labor and Pensions](#) (Mar. 20, 2015), [Vermont Senate Committee on Education](#) (Feb. 26, 2015), [Portland, Oregon Board of Education](#) (Feb. 25, 2015), [Financial Markets and Community Investment Program, Government Accountability Office](#) (Sept. 9, 2014), [Education Law Center](#) (Aug. 14, 2014), [IDEA Data Center](#) (Aug. 11, 2014), [Institute of Medicine II](#) (May 28, 2014), [Annie E. Casey Foundation](#) (May 13, 2014), [Education Trust](#) (April 30, 2014), [Investigations and Oversight Subcommittee of House Finance Committee](#) (Dec. 4, 2013), [Mailman School of Public Health of Columbia University](#) (May 24, 2013), [Senate Committee on Health, Education, Labor and Pensions](#) (Apr. 1, 2013), [Federal Reserve Board](#) (March 4, 2013), [Harvard University et al.](#) (Oct. 26, 2012), [Harvard University](#) (Oct. 9, 2012), [United States Department of Justice](#) (Apr. 23, 2012), [United States Department of Education](#) (Apr. 18, 2012), [The Commonwealth Fund](#) (June 1, 2010), [Institute of Medicine](#) (June 1, 2010), [National Quality Forum](#) (Oct. 22, 2009), [Robert Wood Johnson Foundation](#) (Apr. 8, 2009).

Extended treatments of the varied implications of the pertinent statistical patterns and the failure to understand them may also be found, among many other places, in my [“Race and Mortality Revisited,”](#) *Society* (July/Aug. 2014), [“The Mismeasure of Discrimination,”](#) Faculty Workshop, University of Kansas School of Law (Sept. 20, 2013), [“Can We Actually Measure Health Disparities?,”](#) *Chance* (Spring 2006), [“Race and Mortality,”](#) *Society* (Jan./Feb. 2000), and [“The Perils of Provocative Statistics,”](#) *Public Interest* (Winter 1991). Many graphical and tabular illustrations of the patterns may be found in methods workshops I have recently given at American universities.⁴

Members of the Madison Board of Education should be familiar with this issue as a result of January 2014 email exchange regarding perceptions about the relationship between Madison’s school discipline standards and racial disproportionality in suspensions and expulsions. As with reducing arrests, relaxing discipline standards will tend to increase (a) relative differences in suspensions and expulsions and (b) the proportion more susceptible groups make up of persons suspended and expelled. The following web pages discuss situations where recent reductions in discipline rates were accompanied by increased relative racial/ethnic discipline rates in the jurisdictions indicated in the title of the page: [California Disparities](#), [Colorado Disparities](#), [Connecticut Disparities](#), [Maryland Disparities](#), [Minnesota Disparities](#), [Beaverton, OR Disparities](#), [Denver Disparities](#), [Henrico County, VA Disparities](#), [Los Angeles SWPBS](#), [Minneapolis Disparities](#), [Montgomery County, MD Disparities](#), [Portland, OR Disparities](#), [St. Paul Disparities](#)

Given that the *State Journal* article discusses the comparative size of relative racial differences in arrests in Madison and nationally, I note that one should exercise caution in attributing the comparative size of a relative differences in arrests from jurisdiction to jurisdiction to the frequency of arrests in particular jurisdictions. For other factors affecting the size of relative differences – principally, the extent of varied differences in the circumstances of white and minority communities from jurisdiction to jurisdiction – are likely to play a quite important role in the size of relative differences, whatever the general frequency of arrests in each jurisdiction. By making this point, however, I do not mean to suggest a view that

⁴ See [“The Mismeasure of Health Disparities in Massachusetts and Less Affluent Places,”](#) Department of Quantitative Health Sciences, University of Massachusetts Medical School (Nov. 18, 2015); [“The Mismeasure of Discrimination,”](#) Center for Demographic and Social Analysis, University of California, Irvine (Jan. 20, 2015); [“The Mismeasure of Demographic Differences in Outcome Rates”](#) Public Sociology Association of George Mason University (Oct. 18, 2014); [“Rethinking the Measurement of Demographic Differences in Outcome Rates,”](#) Maryland Population Research Center of the University of Maryland (Oct. 10, 2014); [“The Mismeasure of Association: The Unsoundness of the Rate Ratio and Other Measures That Are Affected by the Prevalence of an Outcome,”](#) Minnesota Population Center and Division of Epidemiology and Community Health of the School of Public Health of the University of Minnesota (Sept. 5, 2014); [“The Mismeasure of Group Differences in the Law and the Social and Medical Sciences,”](#) Institute for Quantitative Social Science at Harvard University (Oct. 17, 2012); [“The Mismeasure of Group Differences in the Law and the Social and Medical Sciences,”](#) Department of Mathematics and Statistics of American University (Sept. 25, 2012).

comparisons of relative differences in arrest from jurisdiction to jurisdiction provide useful information.

But whatever the factors driving differences in arrest rates from jurisdiction to jurisdiction, there remains strong reason to expect that within a particular jurisdiction, generally reducing the frequency of an outcome will tend to increase relative differences in rates of experiencing the outcome as well as the proportion more susceptible group groups make up of persons experiencing the outcome. It is, of course, not impossible for general reductions in arrests to reduce the above-discussed measures of disproportionality in overall arrests, particularly if reductions are solely or largely limited to type of offenses or offenses in particular places that play a very large role in the overall disproportionality figures. But appraisals of the likely impact of particular practices, whether regarding overall disparities or regarding disparities pertaining to particular types of offenses, must be informed by an understanding of the way that a general reduction in an outcome tends to increase, not reduce, standard measures of disproportionality.

Finally, I note that a March 7, 2016 University of Wisconsin *Daily Cardinal* article titled "[Total Madison arrests fall while racial disparities rise over the last decade](#)" discusses that between 2005 and 2014, while total arrests in Madison decreased substantially, the proportion African Americans made up of total arrests increased from 23 percent to 33 percent. The article discusses some possible explanations for the observed pattern, including changes in demographics. I am not in a position to evaluate the role of any of the factors discussed in the article in the observed pattern. I merely note that, as discussed above, there is reason to expect that general decreases in any outcome will tend to increase the proportion more susceptible groups make up of persons experiencing the outcome, just as was observed with regard to Madison arrests over the last decade.

Sincerely

/s/ **James P. Scanlan**

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