

Latinas⁽¹⁾ and Criminal Sentencing: An Exploratory Analysis

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Abstract: The large quantity of scholarly research on criminal sentencing focuses on factors explaining disparities between White and Black populations. In this paper, we begin to fill the void in criminal sentencing research dealing with Latinas. In particular, we use misdemeanor sentencing data from three rural counties in Nebraska to determine if "gringo justice" is applicable to the experience of Chicanas/Mexicanas in the criminal justice system. Findings indicate that Chicanas are disproportionately represented in criminal statistics much like their Chicano/Mexicano counterparts. In addition, the data indicate that Latinas are charged with alcohol, drug, and property related crimes at significantly higher proportions than White females. Latinas also have a significantly higher proportion of individuals receiving more than one misdemeanor charge at initial contact. Although variable by county, the apparent bias in enforcement produces higher proportions of Latinas receiving probation and jail time rather than simple fines as sentencing outcomes. It is argued that bias in enforcement and sentencing of misdemeanor offenses directed towards Latinas carries over into other aspects of the criminal justice system.

Researchers have long been concerned with inequality throughout all aspects of the criminal justice system. However, the majority of this scholarly research has focused on racial/ethnic disparities in the criminal justice system, particularly as they relate to White and Black men. Although the past thirty years has witnessed an increased focus on gender inequalities as unprecedented numbers of women have been incarcerated for the commission and conviction of criminal acts, the continued focus on White and Black disparity has seen little change. Even so, apparent across gender lines is the overrepresentation of non-White racial/ethnic minority groups in crime statistics (Chesney-Lind, 1997; Díaz-Cotto, 1996). Increasingly troublesome for criminological research is the flourishing diversity between and within racial/ethnic groups as it poses serious theoretical and methodological concerns for the often-used White/Black racial/ethnic categorization. For example, Latinos/as have been and continue to be racially categorized as not only White and Black, but also as Native American, Asian, and "other" depending on skin color, nationality, language, surname, citizenship, and/or self-identity. Just as prob-

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lematic is the categorization of Latinos/as into one homogenous group, which ignores varied cultural and historical antecedents for different Latino ethnic groups. The dichotomization of race/ethnicity into White/Black categories precludes a serious examination into the possibility of divergent patterns and levels of criminality among other racial/ethnic groups other than White or Black. Indeed, the possibility of divergent patterns and levels of criminality among various racial/ethnic groups raises the possibility of divergent patterns in criminal sentencing (Belknap, 1996; Díaz-Cotto, 1996).

With this in mind, this study will add to emerging research on the Latina criminal justice experience with an analysis of county court sentencing decisions for Anglo and Mexican descent females in a Midwestern state. In particular, the research attempts to replicate recent empirical support (Muñoz, 2000; Muñoz, et al., 1998) for "gringo justice" or the historical double standard of justice favoring Anglos over Mexicans in U.S. society (Mirandé, 1987; Montoya, 1997; Trujillo, 1974). After further discussion of gringo justice, criminological research is reviewed to determine the nature, scope of, and the societal response to Latino/a criminality. Misdemeanor sentencing data is then employed to determine whether or not the theoretical tenets of gringo justice are applicable not only to the Chicano criminal justice experience, but also to the Chicana criminal justice experience. Research implications are discussed in light of the findings.

Gringo Justice

Historical circumstances permitted the Anglo construction of an image portraying Mexicans as inherently criminal to become prevalent in U.S. society. This socially produced image developed in the early nineteenth century as contact between Anglos and Mexicans intensified on the Northern Mexico frontier. Arguably, it served as one of several precursors to the mid-nineteenth century U.S.-Mexico War, a war culminating in the dubious takeover of land, and subsequently, the social, economic, and political rights of Mexicans remaining in forfeited territory now commonly known as the Southwestern United States. In response to injustices perpetrated by this Anglo takeover, Mexican social banditry flourished long after wartime hos-

ilities ended. Ironically, this worked to crystallize the Anglo image of the cutthroat Mexican bandit preying on "law abiding American citizens and territory." Deteriorated social, economic, and political power for Mexicans left them next to helpless in combating Anglo law enforcement officials', journalists', politicians', and intellectuals' maintenance of the Mexican bandido image. Indeed, early scholarly research on Mexican criminality (i.e., Bogardus, 1943; Rudoff, 1971) often worked to reinforce the long held notion on the criminal nature of Mexicans. Added testimony to the social fabrication of this image is witnessed by the evolution of the nineteenth century Mexican bandido into the mid-twentieth century "pachuco zoot-suiter" (Trujillo, 1974). At the dawn of twenty-first century, ruthless Chicano/a "gang-bangers" and/or Mexicano/a "illegal aliens," "drug runners," and "thieving welfare queens" are common perceptions among a great deal of the U.S. populace (Castro, 1998; Montoya, 1997, 1994; Muñoz, 2000; Muñoz, et al., 1998; Ontiveros, 1995, 1993; Portillos, 1998). Local and national media debate on the impact of Latino immigrants into Midwestern rural communities provides further illustration. Various quotes by politicians, police officials, community leaders, and intellectuals alike often raise claim to the increasing crime problem associated with Latino immigrants formally and informally recruited into the area to compensate for labor shortages in the re-emergent meatpacking industry. Despite empirical evidence to their claims, the mere presence of Latino immigrants instills fear among longtime residents (Bergstrom, 1995; Carney, 1995; Cooper, 1997; Hedges, et al., 1996; Hendee, 1996; Norman, 1996; Yearwood, 1995). Stereotypical images of Mexican criminality, coupled with cultural differences between Anglos and Mexicans, justifies and rationalizes the maintenance of a double standard of justice where Mexicans receive negative disparate treatment in criminal justice encounters.

Empirical support for gringo justice greatly outweighs findings of no racial/ethnic bias in sentencing between Whites and Latinos (i.e., LaFree, 1985b; Tinker, et. al., 1985). Not surprising, and characteristic of empirical studies backing gringo justice, is a focus primarily on Mexican American men. In general, findings suggest that Latino men have higher arrest and incarceration rates than non-Latino Whites. As can be expected, sentencing differentials favoring White over Latino

men are found in regions heavily populated by Latinos (Holmes & Daudistel, 1984; LaFree, 1985a; Nixon, 1996; Petersilia, 1985; Unnever, 1982). Not as anticipated, however, is empirical support for gringo justice in the U.S. Northwest (Hood & Harlan, 1991; Hood & Lin, 1993) and Midwest (Muñoz, 2000; Muñoz, et al., 1998) where a Latino presence is less well defined. In any case, sources of disparate sentencing decisions arise from jury (Holmes & Daudistel, 1984) and judicial decision-making (Petersilia, 1985). Differential criminal processing (i.e., greater number of charges, more serious offenses, bail decisions, etc.) also helps to explain differentials between Anglo and Latino men (Holmes & Daudistel, 1984; Petersilia, 1985). Glaringly absent from quantitative investigations is whether or not similar factors affect Latinas in criminal sentencing decisions.

Latinas and Criminal Justice

Research specifically addressing Latinas and the criminal justice system is scarce, and more often than not concerns itself with descriptions of youth gang activity (Castro, 1998; Mazón, 1984; Mirandé, 1987; Moore, 1991; Portillos, 1998). Evident from these writings is the image of Latinas, and more specifically, Chicanas, as over sexualized drug addicts subservient to Chicano gang members. The real and perceived association between gangs and drugs has certainly added fuel to the "War on Drugs" and to subsequent policies designed to rectify the situation—i.e., mandatory drug sentencing guidelines. There is little doubt that these policies have had a devastating effect on non-white women (Belknap, 1996; Chesney-Lind, 1997; Díaz-Cotto, 1996), and they certainly account for the tremendous rise in Latina prisoners in recent decades (Chesney-Lind, 1997; Díaz-Cotto, 1996).

Recent legal scholarship, particularly Critical Race Feminist Theory (Wing, 1997) and LatCrit Theory (Stefancic, 1998), has employed storytelling and narrative analysis to deconstruct seemingly fair societal arrangements that, in reality, provide race, class, and/or gender advantage throughout all aspects of social interaction, and equally important, societal institutions. More specifically, historical stereotypes tied to issues of race/ethnicity/culture, class, and/or gen-

der function to reduce the credibility of Latinas and place them at a distinct disadvantage in the criminal justice system (Montoya, 1997; Montoya, 1994; Ontiveros, 1995; Ontiveros, 1993). Workplace sexual harassment provides a good case in point. White males may feel confident that they will not be convicted in a court of law for sexual harassment, especially when their victims are "overly sexual" Latinas who surely acquiesce to sexual advances in return for personal gain. Conversely, Latino harassers may be the recipients of leniency in the eyes of criminal justice actors due to this behavior's perceived "normalcy in the macho Latino culture." What's more, this macho culture may foster a degree of submissiveness and passivity among Latinas, and, therefore, reluctance in seeking legal retribution (Ontiveros, 1993).

Despite this rich theoretical literature, there is a dearth of systematic quantitative empirical examination on whether or not socially constructed images of Latina criminality affect law enforcement activities, criminal processing, and sentencing decisions. The few empirical studies analyzing criminal sentencing decisions among Latinas demonstrates little disparity (Daly, 1989; Gruhl, et al., 1984; Hood & Lin, 1993; Nelson, 1994). Some of this research lends itself to testing for judicial paternalism in criminal processing and sentencing outcomes (Daly, 1989; Gruhl, et al., 1984). According to this hypothesis, judges, as well as other criminal justice officials, allow for more leniency in decision-making towards women in order to protect them from the harshness of incarceration. In addition, women are viewed as being much less violent than men are, and therefore, not as threatening to the general population, further rationalizing leniency in sentencing decisions.

There is general support for this view with women being treated more leniently than men are in sentencing outcomes. However, race/ethnicity works counter-intuitively as Black women benefit most and Latinas benefit slightly more than White women do from seemingly judicial paternalism. Researchers argue that higher proportions of non-White female-headed households rather than judicial paternalism is a better explanation to this apparently anomalous finding as judges are more reluctant to separate children from primary care-takers (Daly, 1989; Gruhl, et al., 1984). More importantly and what sets this research apart from other research on Latinas and their criminal

justice experience is the careful attention to specific race and gender effects rather than simple male/female (Hood & Lin, 1993) and minority/non-minority analyses (Nelson, 1994). Left unclear among the limited evidence is whether or not Latinas experience harsher sentencing outcomes due to biased discretion and enforcement of criminal codes reflecting preconceived notions of Latina criminality.

Setting for the Study

Evidence of a dual standard of justice outside of the American Southwest where Chicanos/as historically have resided, in effect, can buttress theoretical contentions of gringo justice. Although Latinos in the Midwest increased by a lower proportion than Latinos nationwide between 1980 and 1990, their proportional increase in the Midwest is in stark comparison to minimal gains and losses in the non-Latino White population for the region (Aponte and Siles 1994). A case in point, the total Nebraska population increased by a mere 0.5 percent from 1980 to 1990. Moreover, the Nebraska non-Latino White population decreased 1.1 percent from 1980 to 1990, yet the Nebraska Latino population increased 30.8 percent. More telling, four-fifths of the 1990 Nebraska Latino population is of Mexican origin and this population increased by 32.2 percent between 1980 and 1990 (Rochín & Siles, 1996). Thus, Nebraska provides an excellent social laboratory to explore the issues brought forth. For comparative purposes, non-Latino Whites comprise 92.5 percent of the 1990 Nebraska population of 1,578,385, with non-Latino Blacks comprising 3.6 percent, Latinos 2.3 percent, Native Americans 0.7 percent, Asians 0.8 percent, and "Others" 0.1 percent (U.S. Bureau of the Census, 1992).

To be sure, the Latino/a presence in Nebraska is both long and overlooked. Spanish and Mexican exploration into the Nebraska geographic region dates back to the early eighteenth century. In addition, Mexican and Mexican American migration to Nebraska developed in the late nineteenth century and became solidified up through the twentieth century. Expanded economic opportunities provided the major attraction. Notable was the development and entrenchment of the sugar beet industry in the Nebraska panhandle, which led to Scottsbluff County becoming the major enclave of Mexican settle-

ment (Rochín & Siles, 1996; Valdés, 1991). Continued immigration coupled with natural growth from "settling out" of the migrant labor stream has made the 1990 Scottsbluff County 14.5 percent Latino population the largest racial/ethnic minority proportional concentration throughout the state (Nelson, 1997; U.S. Bureau of the Census, 1992). Chicanos/as are highly discernible in Scottsbluff County, which only accounts for 2.3 percent or 36,025 of the state's total population. Native Americans, the next largest racial/ethnic minority group in the county, only account for 1.6 percent of the county total. In accordance with the state trend, the Scottsbluff County non-Latino White population decreased 9.2 percent between 1980 and 1990 while the Latino population increased 11.1 percent. This increase, although relatively smaller than the overall state trend, coupled with the relatively large size of the Latino population in the county is a good indication of the stability of this approximately century old Chicano/a enclave (U.S. Bureau of the Census, 1992).

Unquestionably, railroad and meatpacking employment provided the early attraction for Latinos/as to the eastern part of the state. More recently, the re-emergence of the meatpacking industry employing non-union immigrant labor in northeastern rural counties accounts for the increase in Latino/a populations for Dakota and Madison counties respectively (Freed, 1996; Gonzalez, 1994; U.S. Bureau of the Census, 1992). For example, in 1990 IBP, Inc., recruited 770 immigrant and non-immigrant Mexican workers from Texas to work in plants located in Dakota and Madison counties. And while high employee turnover is characteristic of the "new" meatpacking industry, it has not precluded the settling out process for many recruited laborers and their families (Gonzalez, 1994). Indeed, Dakota County's 25.7 percent and Madison County's 15.6 percent births of Mexican ancestry in 1990 is higher than the 1989 national proportion of 8.1 percent, and is a reliable indicator of a settling out process (Nebraska Department of Health, 1996). These relatively high proportions of Mexican births are major contributors to the 111.2 percent and 306.4 percent increases in Dakota and Madison counties' 1990 Latino populations, respectively. The increased Mexican presence in both counties has allowed for an overall net increase in population for both of these non-metropolitan counties, a trend directly opposite for 83 of the 93 counties in

Nebraska (U.S. Bureau of the Census, 1992).

Data and Methods

Corresponding to the tremendous growth of the overall Latino population in Nebraska was an increase in formal and informal complaints of law enforcement mistreatment of Latinos/as filed with the Nebraska Mexican American Commission. This state agency acts as the primary liaison between the Latino/Mexican growing dissatisfaction of Latinos/as with the state's criminal justice system, the Commission employed a private consulting entity to examine the situation further. In the summer of 1993, the lead author was employed by consultants to help design and implement the Commission's Sentencing Research Project. The original sentencing project called for the collection and analysis of court data from seven Nebraska counties. These included the two urban counties of Douglas and Lancaster, as well as the rural county of Scottsbluff where a definite Chicano/a enclave was well established. Also selected for analysis were Dakota, Madison, Hall, and Dawson counties. These counties were selected because of their rapidly growing Latino populations induced by the recruitment of Latino/a, and particularly, Mexican immigrant labor by meatpacking corporations.

However, administrative oversight on the sheer volume of cases disposed caused an early termination of data collection because of limited funding. Furthermore, the untimely oversight forced project administrators to hastily employ additional data collectors with limited training leading to a significant amount of missing data, particularly dealing with the race/ethnicity of offenders (approximately 3,000 cases). Nevertheless, information was collected from over 12,000 misdemeanor and felony criminal cases filed in Dakota, Madison, and Scottsbluff county courts in the calendar year of 1992. Because felony cases were proportionally minimal in all three counties, and because they are forwarded to and later adjudicated in separate District courts, they were excluded from analyses. More importantly and as we will demonstrate, focusing on misdemeanor cases fills a void in criminal sentencing research, the cumulative disadvantage effect (Zatz, 1987) that racially biased enforcement and punishment of misdemeanor laws

Table 1: Descriptive Statistics for Selected Sample^a Variables

| | Dakota <u>Percent</u> | Madison <u>Percent</u> | Scottsbluff <u>Percent</u> | Total <u>Percent</u> |
|-----------------------|--------------------------|---------------------------|-------------------------------|-------------------------|
| County (N) | 22.4 (735) | 33.6 (1,101) | 44.0 (1,442) | 100.0 (3,278) |
| White | 56.5 | 91.0 | 68.2 | 74.1 |
| Latina | 8.0 | 4.7 | 27.0 | 15.0 |
| Indian (N) | 11.7 (497) | 1.5 (890) | 4.3 (1,056) | 4.7 (2,443) |
| Personal Assault | 6.3 | 0.9 | 1.3 | 2.3 |
| Resist/Disturb | 0.7 | 0.6 | 2.6 | 1.5 |
| Drugs/Alcohol | 8.1 | 7.5 | 4.9 | 6.5 |
| Property | 22.9 | 8.3 | 7.7 | 11.3 |
| Traffic | 51.5 | 81.9 | 74.7 | 71.9 |
| Other (N) | 10.4 (730) | 0.8 (1,098) | 8.8 (1,441) | 6.5 (3,269) |
| | <u>Mean</u> | <u>Mean</u> | <u>Mean</u> | <u>Mean</u> |
| Age (N) | 29.3 (692) | 30.1 (1,038) | 30.5 (1,344) | 30.1 (3,074) |
| Total Offenses (N) | 1.2 (730) | 1.1 (1,099) | 1.1 (1,441) | 1.1 (3,270) |
| Fine (N) | \$75.16 (628) | \$54.77 (1,097) | \$32.57 (1,437) | \$48.73 (3,162) |
| Days Probation (N) | 27.7 (629) | 9.7 (1,097) | 6.0 (1,437) | 11.6 (3,163) |
| Days Jail (N) | 1.9 (627) | 2.7 (1,097) | 1.4 (1,434) | 1.9 (3,158) |

^a Source: Nebraska Mexican American Commission Sentencing Research Project Data

has in other aspects of criminal adjudication. That is, racial/ethnic bias at this primarily initial contact with the criminal justice system has serious consequences for individuals later arrested and convicted for felony violations. A prime example can be seen through the practice of determinate sentencing guidelines based largely on an individual's prior record. Prior criminal history is also a consideration in decisions of prisoner parole.

For the entire sample, Dakota County registered 25.6 percent of the total cases observed, while Madison County registered 32.9 percent, and Scottsbluff County registered 41.4 percent. The gender and date of birth of individual defendants were readily available and recorded from court files. Males accounted for 72.1 percent of misdemeanor cases with females accounting for 27.9 percent. In line with the focus of this paper, males are excluded from the analysis leaving a total of 3,278 female cases.¹ As shown in Table 1, Scottsbluff County accounts for 44.0 percent of female misdemeanants followed by Madison County (33.6 percent) and Dakota County (22.4 percent). Traffic violations are the overwhelming majority of misdemeanor cases adjudicated in the sample with a high of 81.9 percent in Madison County to a low of 51.5 percent in Dakota County. The mean age of female misdemeanants is approximately 30 years for the sample and in all three counties. The mean number of total offenses is highest in Dakota County at 1.2. Dakota County registers the highest mean fine of \$75.16 and mean probation at 27.7 days. Madison County misdemeanants have the largest mean jail sentence at 2.7 days. Of the 2,443 female cases where racial/ethnic identification was recorded, 74.1 percent were identified as White, 4.7 percent as Native American, and 6.2 as "Other." Latino ethnic ancestry was not indicated in court records so Spanish surname was employed to identify Latinas, and they accounted for 15.0 percent of the sample ranging from a high of 27.0 percent in Scottsbluff County to a low of 4.7 percent in Madison County.⁽²⁾ For brevity and focus, discussion on the remainder of the analysis will be between White and Latina female misdemeanants. Also, for consistency and less confusion Latina will be the terminology employed in discussion of findings. This said, it is important to note that Chicanas predominate in Scottsbluff County, while Mexicanas predominate in both Dakota County and Madison County.

Table 2: White/Latina County^b and Sample^a Population

Disproportionality

| | White | | Latina | |
|--------------------|-------------------|------------------|-------------------|------------------|
| | County | Sample | County | Sample |
| Dakota (N) | 90.4% (8,448) | 56.5% (497) | 5.3% (8,448) | 8.0% (497) |
| Madison (N) | 97.2% (16,701) | 91.0% (890) | 1.3% (16,701) | 4.7% (890) |
| Scottsbluff (N) | 83.3% (18,722) | 68.2% (1,056) | 14.4% (18,722) | 27.0% (1,056) |
| Total (N) | 90.0% (43,871) | 74.1% (2,443) | 7.6% (43,871) | 15.0% (2,443) |

^a Source: Nebraska Mexican American Commission Sentencing Research Project Data

^b Source: U.S. Bureau of the Census (1992)

In Table 2 of the data, population disproportionality is evident when comparing the 1990 combined non-Latina White female population of 90.0 percent in Dakota, Madison, and Scottsbluff counties to the sample's respective White female population percentage of 74.1. Corresponding figures further demonstrate population disproportionality, as the combined 1990 Latina population for the counties is 7.6 percent compared to the sample's 15.0 percent Latina population. This pattern of White female under-representation and Latina over-representation is consistent in all three counties. Dakota County Latinas account for 5.3 percent of the Dakota County female population, but account for 8.0 percent of Dakota County Latina misdemeanants. Latinas make up 1.3 percent of the total 1990 Madison County female population and 4.7 percent of Madison County Latina misdemeanants. Finally, 14.4 percent of the 1990 female population in Scottsbluff County identifies as Latina while 27.0 percent of Scottsbluff County female misdemeanants were identified as Latina

(U.S. Bureau of the Census 1992).

Chi-square tables are used to test hypotheses that Latinas will have significantly higher proportions of younger misdemeanants, more serious misdemeanor crimes (i.e., property, drug/alcohol vs. traffic), and more total charges than their White counterparts. Although some individuals were charged with more than one specific offense, our focus of analysis is on the first offense listed in a specific case since it is usually the offense of record. Small cell totals were collapsed to reduce the number of offense type categories for analysis. Personal, domestic, and sexual assaults are combined into a personal assault category. We combine resisting arrest and disturbing the peace together, but examine them separately from assaults, as they are not always violent in nature. Drug and alcohol offenses are combined to form another category. Trespassing offenses are combined with property offenses. The multitudes of traffic offenses are examined separately. The 'Other' category consists of all other offenses not closely related to the above such as leash laws, administrative, etc. Chi-square tables are also used to test hypotheses that significantly higher proportions of Latinas will receive higher fines, in addition to having significantly higher proportions of individuals sentenced to probation and jail. Cramer's V measure of association is employed to examine the strength of significant relationships for the overall sample and by county. A Cramer's V value greater than or equal to 0.15 indicates a strong relationship between variables (Stewart 1997).⁽⁴⁾

Findings

With the exception of probation and jail sentences, significant chi-square relationships are evident for all other sample variables analyzed in Table 3. The strong relationship between county of offense and race/ethnicity ($p \leq .000$; Cramer's $V = .29$) is interesting in that proportions of White misdemeanants do not correspond neatly to county populations in terms of absolute numbers. One would expect the largest proportion of White female misdemeanants to be charged in Scottsbluff County based on its largest total White female county population (see Table 2). This is in contrast to proportions of Latina misdemeanants that correspond somewhat more to absolute

Table 3: Percent White/Latina for County, Age, Offense Type, Total Charges, Fine, Probation, and Jail^a

| | <u>White</u> | <u>Latina</u> | <u>Chi-Square</u> | <u>df</u> | <u>Cramer's V</u> |
|------------------|--------------|---------------|-------------------|-----------|-------------------|
| Dakota | 15.5 | 10.9 | 185.8*** | 2 | .29 |
| Madison | 44.7 | 11.4 | | | |
| Scottsbluff | 39.8 | 77.7 | | | |
| (N) | (1,811) | (367) | | | |
| Low - 17 | 10.2 | 7.4 | 20.1*** | 2 | .10 |
| 18 - 39 | 67.5 | 79.6 | | | |
| 40 - High | 22.3 | 13.0 | | | |
| (N) | (1,778) | (339) | | | |
| Personal Assault | 0.8 | 2.5 | 310.7*** | 6 | .38 |
| Resist/Disturb | 0.3 | 2.5 | | | |
| Drugs/Alcohol | 1.9 | 10.4 | | | |
| Property | 2.9 | 13.4 | | | |
| Traffic | 93.2 | 61.3 | | | |
| Other | 0.8 | 9.8 | | | |
| (N) | (1,807) | (367) | | | |
| One Charge | 94.6 | 87.5 | 25.5*** | 1 | .11 |
| Two or More | 5.4 | 12.5 | | | |
| (N) | (1,808) | (367) | | | |
| \$0 / Suspended | 3.7 | 13.7 | 80.8*** | 2 | .19 |
| \$1 - \$50 | 84.9 | 67.2 | | | |
| \$51 - High | 11.4 | 19.0 | | | |
| (N) | (1,806) | (357) | | | |
| Probation | 2.2 | 3.1 | 1.1 | 1 | .02 |
| (N) | (1,806) | (358) | | | |
| Jail | 1.8 | 3.4 | 3.4 | 1 | .04 |
| (N) | (1,806) | (358) | | | |

* p ≤ .05 ** p ≤ .01 *** p ≤ .001

^a Source: Nebraska Mexican American Commission Sentencing Research Project Data

county totals. However, nearly four-fifths of Latina misdemeanants in the sample reside in Scottsbluff County hinting that bias in criminal justice for Latinas may be strongest in this long established Chicano/ a enclave.

Even though there is a significantly higher combined proportion of Latinas (87%; p £ .000) under the age of 40 charged with misdemeanor crimes, the relationship is not a relatively strong relationship (Cramer's V = .10). The strong significant relationship found between type of crime and race/ethnicity (p £ .000; Cramer's V = .38) does, however, provide convincing support that higher proportions of Latinas will be charged sentenced with more serious crimes. Notably, combined percentages show that only 6.8 percent of White female misdemeanants were charged with something other than a simple traffic violation. This is in stark contrast to the 13.4 percent of Latinas charged with property crimes, and the 10.4 percent of Latinas charged with drug and alcohol offenses. And while not particularly strong (p £ .000; Cramer's V = .11), the significant relationship between total charges and race/ethnicity provides support for the hypothesis that a higher proportion of Latinas will be the recipients of more than one charge. The data show 12.5 percent of Latinas received more than one charge in comparison to only 5.4 percent of White females that received more than one charge.

Finally, the strong significant relationship between fine and race/ethnicity (p ≤ .000; Cramer's V = .19) merits more detailed discussion. The higher proportion of Latinas receiving fines over \$50 (19.0%) supports the hypothesis that Latinas will receive higher fines for the conviction of misdemeanor crimes. However, there is a higher proportion of Latinas who do not receive a fine or have their fine suspended (13.7%) which brings forth an arguable caveat. Judges may impose a sentence of probation and/or jail for a defendant if she is found, or even perceived, to lack sufficient economic resources necessary to pay a fine (Nelson 1994). Considering the time and energy involved in completing a probation sentence—i.e., mandatory alcohol/drug counseling, periodic probation officer meetings, etc.—it may be more advantageous to pay a one-time fine, which places an immediate finality to the case disposition. Indeed, a jail sentence prohibits the generation of economic resources, and even worse, stigmatizes an

Table 4: Percent Dakota County White/Latina for Age, Offense Type, Total Charges, Fine, Probation, and Jail^a

| | <u>White</u> | <u>Latina</u> | <u>Chi-Square</u> | <u>df</u> | <u>Cramer's V</u> |
|------------------|--------------|---------------|-------------------|-----------|-------------------|
| Low - 17 | 8.3 | 10.8 | 0.8 | 2 | .05 |
| 18 - 39 | 75.9 | 78.4 | | | |
| 40 - High | 15.8 | 10.8 | | | |
| (N) | (278) | (37) | | | |
| Personal Assault | 5.0 | 7.5 | 29.0*** | 6 | .30 |
| Resist/Disturb | 1.4 | 0.0 | | | |
| Drugs/Alcohol | 5.4 | 10.0 | | | |
| Property | 10.8 | 32.5 | | | |
| Traffic | 74.2 | 40.0 | | | |
| Other | 3.2 | 7.5 | | | |
| (N) | (1,807) | (367) | | | |
| One Charge | 84.6 | 82.5 | 0.1 | 1 | .02 |
| Two or More | 15.4 | 17.5 | | | |
| (N) | (279) | (40) | | | |
| \$0 / Suspended | 10.8 | 22.6 | 3.8 | 2 | .11 |
| \$1 - \$50 | 58.8 | 54.8 | | | |
| \$51 - High | 30.3 | 22.6 | | | |
| (N) | (277) | (31) | | | |
| Probation | 9.7 | 6.3 | 0.4 | 1 | .04 |
| (N) | (277) | (32) | | | |
| Jail | 7.2 | 12.5 | 1.1 | 1 | .06 |
| (N) | (1,806) | (358) | | | |

* p ≤ .05 ** p ≤ .01 *** p ≤ .001

^a Source: Nebraska Mexican American Commission Sentencing Research Project Data

individual. Hence, the seemingly advantageous sentence of no fine found here, may be more an indication of probation and jail sentences for Latinas. While not statistically significant ($p > .05$), support for this contention emerges with higher proportions of Latinas receiving probation (3.1 percent) and jail time (3.4 percent) as punishment for misdemeanor crimes.

Interesting county differences are discussed beginning with data in Table 4. Similar to the overall sample finding, yet the only statistically significant relationship in Dakota County is the strong proportional difference among White and Latina misdemeanants in the type of crime committed ($p \leq .000$; Cramer's $V = .30$). In Dakota County, a phenomenal 60.0 percent of Latina misdemeanants are charged with something other than a simple traffic violation. Findings for Madison County are shown in Table 5 and are more in line with overall sample findings. A significantly higher proportion of Latinas under 40 years of age (84.6%; $p \leq .05$) are charged with misdemeanor crimes, but the relationship is relatively weak (Cramer's $V = .09$). Significant proportional differences favoring Madison County White females over Madison County Latinas are present in the type of crime committed ($p \leq .000$; Cramer's $V = .23$), the total number of charges ($p \leq .01$; Cramer's $V = .10$), and the amount of fine ($p \leq .000$; Cramer's $V = .23$). Different from sample findings is the strong significant relationship between jail and race/ethnicity ($p \leq .000$; Cramer's $V = .19$) with Madison Latinas having a higher proportion of individuals receiving a jail sentence (14.3%) for the conviction of a misdemeanor offense. Findings further support hypotheses that Latinas are treated more harshly than their White counterparts in criminal justice encounters.

Compelling evidence of a dual standard of justice for White and Latina females arises from Scottsbluff County data, where significant relationships were found among all the variables analyzed (see Table 6). Unlike previous findings, only in Scottsbluff County is the relationship between age and race/ethnicity relatively strong with a higher proportion of Latinas under 40 years old charged with misdemeanor crimes ($p \leq .000$; Cramer's $V = .15$). Seemingly inconceivable, yet manifest in the data is that 99.6 percent of White female misdemeanants were charged with simple traffic violations, and only

Table 5: Percent Madison County White/Latina for Age, Offense Type, Total Charges, Fine, Probation, and Jail^a

| | White | Latina | Chi-Square | df | Cramer's V |
|------------------|-------|--------|------------|----|------------|
| Low - 17 | 9.7 | 0.0 | 6.1* | 2 | .09 |
| 18 - 39 | 68.0 | 84.6 | | | |
| 40 - High | 22.3 | 15.4 | | | |
| (N) | (807) | (39) | | | |
| Personal Assault | 0.0 | 2.4 | 45.6*** | 5 | .23 |
| Resist/Disturb | 0.1 | 0.0 | | | |
| Drugs/Alcohol | 2.4 | 11.9 | | | |
| Property | 2.6 | 11.9 | | | |
| Traffic | 94.2 | 73.8 | | | |
| Other | 0.7 | 0.0 | | | |
| (N) | (808) | (42) | | | |
| One Charge | 95.4 | 85.7 | 7.9** | 1 | .10 |
| Two or More | 4.6 | 14.3 | | | |
| (N) | (809) | (42) | | | |
| \$0 / Suspended | 1.6 | 14.3 | 44.6*** | 2 | .23 |
| \$1 - \$50 | 87.9 | 57.1 | | | |
| \$51 - High | 10.5 | 28.6 | | | |
| (N) | (810) | (42) | | | |
| Probation | 1.5 | 2.4 | 0.2 | 1 | .02 |
| (N) | (810) | (42) | | | |
| Jail | 1.6 | 14.3 | 29.4*** | 1 | .19 |
| (N) | (810) | (42) | | | |

* $p \leq .05$ ** $p \leq .01$ *** $p \leq .001$

^a Source: Nebraska Mexican American Commission Sentencing Research Project Data

0.4 percent were charged with property and alcohol/drug violations ($p \leq .000$; Cramer's $V = .54$). On the other hand, only 62.5 percent of Latinas were charged with simple traffic violations with 37.5 percent charged with property, alcohol/drugs, resisting arrest/disturbing the peace, assault, and other violations. Latinas in Scottsbluff County also had significantly higher proportions of individuals with more than one charge ($p \leq .000$; Cramer's $V = .19$), higher fines ($p \leq .000$; Cramer's $V = .27$), probation ($p \leq .000$; Cramer's $V = .14$) and jail sentences ($p \leq .05$; Cramer's $V = .07$).

Even though variation existed among sample and county findings, there is considerable support for hypotheses that Latinas will have significantly higher proportions of younger misdemeanants, more serious misdemeanor crimes, and more total charges than their White counterparts. Findings also provide support for hypotheses that Latinas will be dealt with more harshly than their White counterparts in sentencing decisions as evidenced by larger proportions of Latinas with higher fines, and larger proportions of Latinas sentenced to probation and jail. Important to note is that findings represent statistically significant correlations and not causality between Latina ethnicity and selected variables from the data. In addition, the data is cross-sectional and represent a snapshot of sentencing decisions in three Nebraska counties during 1993 making it difficult to generalize to the overall Latina criminal justice experience. Also somewhat ambiguous due to quantitative analysis is how stereotypical images of Latina/Chicana criminality affect criminal sentencing decisions. These limitations leave findings open to two interpretations.

It could be argued that Latinas commit a wider variety of criminal misdemeanors with more frequency, which explains their severe sentencing outcomes. Unlike White females, who are prone to a simple traffic violation every now and then and subject to a fine, Latinas are over involved in alcohol and drug related criminal activity, which places them at a higher probability for probation and/or incarceration. Recent research measuring substance use/abuse among Nebraska White and Latino populations renders this logic suspect as Latinas had the least probability of being diagnosed as alcohol/drug dependent and abusive (Muñoz and Lopez 2000). An alternative explanation is that Latinas may be victims of biased enforcement and punishment of al-

Table 6: Percent Scottsbluff County White/Latina for Age, Offense Type, Total Charges, Fine, Probation, and Jail^a

| | <u>White</u> | <u>Latina</u> | <u>Chi-Square</u> | <u>df</u> | <u>Cramer's V</u> |
|------------------|--------------|---------------|-------------------|-----------|-------------------|
| Low - 17 | 11.5 | 8.0 | 21.5*** | 2 | .15 |
| 18 - 39 | 63.6 | 79.1 | | | |
| 40 - High | 24.8 | 12.9 | | | |
| (N) | (693) | (263) | | | |
| Personal Assault | 0.0 | 1.8 | 289.1*** | 5 | .54 |
| Resist/Disturb | 0.0 | 3.2 | | | |
| Drugs/Alcohol | 0.1 | 10.2 | | | |
| Property | 0.3 | 10.9 | | | |
| Traffic | 99.6 | 62.5 | | | |
| Other | <u>0.0</u> | <u>11.6</u> | | | |
| (N) | (720) | (285) | | | |
| One Charge | 97.6 | 88.4 | 36.7*** | 1 | .19 |
| Two or More | 2.4 | 11.6 | | | |
| (N) | (720) | (285) | | | |
| \$0 / Suspended | 3.3 | 12.7 | 75.4*** | 2 | .27 |
| \$1 - \$50 | 91.5 | 70.1 | | | |
| \$51 - High | 5.1 | 17.3 | | | |
| (N) | (719) | (284) | | | |
| Probation | 0.0 | 2.8 | 20.4*** | 1 | .14 |
| (N) | (719) | (284) | | | |
| Jail | 0.0 | 0.7 | 5.1* | 1 | .07 |
| (N) | (719) | (284) | | | |

* p ≤ .05 ** p ≤ .01 *** p ≤ .001

^a Source: Nebraska Mexican American Commission Sentencing Research Project Data

cohol and drug related criminal behavior because of images associating Latinas with gangs and drugs. It certainly corresponds to previous research documenting the rise of Latina drug felons in recent years (Chesney-Lind 1997; Díaz-Cotto 1996). Images associating Latinas with poverty and public assistance may also have some bearing on the higher proportions of Latinas charged and convicted for property crimes. Store employees may be overzealous in their scrutiny, detection, and prosecution of Latina shoplifters in comparison to White female shoplifters. In addition, Latinas may be perceived as more likely to commit fraud or write bad checks.

Much like other social scientific inquiry of social phenomena, the triangulation of quantitative and qualitative research can best determine the nature and scope of Latina stereotypes and how they affect criminal justice officials' decision-making processes. With the help of unconventional data sources and methodologies researchers can determine if and how socially constructed stereotypes affect Latinas in criminal justice encounters. More specifically, analysis of tape-recorded officer dispatch conversations can provide insight into citizen reporting, as well as police investigation and action taken in regard to suspected criminal behavior.

Most telling from the data is that findings strongly resemble disparate sentencing decisions for Latinos in Dakota, Madison, and Scottsbluff counties and contradict conventional wisdom (Muñoz et al. 1998). One would expect that immigrant communities are more likely to experience negative treatment at the hands of the criminal justice system because crime is often associated with immigrant groups. This was not the case here for Latinas, nor was it the case in a previous analysis for Latinos. Differential treatment was most pronounced for Chicanos/as in Scottsbluff County, a county with a historical stable and established Chicano/a presence since the turn of the twentieth century. This undoubtedly attests to the enduring character of criminal stereotypes and gives reason to believe that the criminal justice experience for future generations of Mexicanos/as in Dakota County and Madison County may worsen. What's more, bias at this early juncture of the criminal justice may be a form of institutionalized bias, particularly when prior records are weighed heavily in determine sentencing guidelines for felony offenses.

In any event, results provide additional support to theoretical contentions of a dual standard of justice favoring Anglos over Latinos/as. Personal storytelling and narrative analysis employed by contemporary Latina critical theorists (Montoya 1997, 1994; Ontiveros 1995, 1993) has gone a long way in refining early socio-historical scrutiny of this dual standard of justice as posited by early Latino critical theorists (Mirandé 1987; Trujillo 1974). The continued weaving of socio-historical analysis with personal storytelling/narrative analysis, along with systematic quantitative analysis can only move further toward the dismantling of gringo/a justice.

Endnotes

1. Although considerable debate revolves around social, economic, and political baggage that accompanies the use of various racial/ethnic labels, this is not the purpose of this paper. Nevertheless, a clarification of terminology is in order to help clarify any confusion among readers. The term, "Latino," and its plural derivative, "Latinos," is used much like the common use of the term Hispanic - an umbrella term for those individuals who trace their ancestry from Latin American countries. The feminine forms of the terms, "Latina" and "Latinas," will be used when specifically referring to females who trace their ancestry to Latin American countries. The terms, "Latino/a" and "Latinos/as," are used to refer emphatically to a male/female experience. In similar fashion, the term, "Chicano," and its derivatives, are used to differentiate U.S. born Latinos/as who trace their ancestry to Mexico, while the term "Mexicano" and its derivatives will be used when referring to Mexican immigrants and their children. Finally, "Anglo" is used interchangeably with "White." This is a general rule of thumb, and when necessary, a more specific rationale for the choice of labels will ensue in the text.

2. The analysis of male misdemeanors is dealt with in Muñoz et al. (1998).

3. There are methodological limitations to using Spanish surname to identify Latinas. In particular, Latinas can and do change their sur-

names at marriage becoming problematic if the change is to a non-Spanish surname. Similarly, progeny of these unions would be excluded. This potential quandary is most acute in Scottsbluff County where marital assimilation may well be occurring at a higher rate among third and fourth generation Chicanas.

4. For more information on how to interpret and calculate Cramer's V see Norusis/SPSS Inc. (1990, 132-133).

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