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# Official Reactions to Hispanic Defendants in the Southwest

Gary D. LaFree

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**Working Paper #105**

**Spring 1984**

**OFFICIAL REACTIONS TO HISPANIC DEFENDANTS  
IN THE SOUTHWEST**

**By**

**Gary D. LaFree  
University of New Mexico**



**Southwest  
Hispanic  
Research  
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OFFICIAL REACTIONS TO HISPANIC DEFENDANTS IN THE SOUTHWEST

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## OFFICIAL REACTIONS TO HISPANIC DEFENDANTS

### IN THE SOUTHWEST

#### Abstract

Criminologists and policymakers have long been concerned about differential treatment of minorities by the legal system. However, few researchers have specifically examined the treatment of Hispanics. The purpose of this study was to determine whether and to what extent criminal justice outcomes and their determinants differ for Hispanics and nonHispanics in Tucson, Arizona and El Paso, Texas. An analysis of 755 defendants whose most serious charge was robbery or burglary showed major differences in official processing in the two jurisdictions. In Tucson, I found little evidence of unfavorable Hispanic treatment. Being Hispanic had no effect on the type of adjudication received, verdicts, or sentence severity. Hispanics in Tucson received more favorable pretrial release decisions than whites and spent less time in detention awaiting the adjudication of their cases. By contrast, Hispanic defendants in El Paso received less favorable pretrial release outcomes than white defendants, were more likely to be convicted in jury trials, and received more severe sentences when they were found guilty by trial. Qualitative interviews in the two jurisdictions suggested that the treatment differences in Tucson and El Paso may be due in part to different systems of providing attorneys to indigent defendants, differences between established Hispanic citizens and less well established Mexican-American citizens and Mexican nationals, different methods for granting pretrial release, and disadvantages in court processing due to English language difficulties. Future research should compare the criminal justice experiences

of Hispanics and nonHispanics in other jurisdictions and for other crime types.

## SUMMARY

### Introduction

The legitimacy of legal systems in democratic societies rests on their ability to provide equal treatment under the law. For the last half-century, researchers have compared the treatment received by minorities and nonminorities within the criminal justice system. Most of this research has compared the treatment of black defendants and white defendants. By contrast, few researchers have considered the treatment received by Hispanic defendants. To help provide better information on the criminal justice experiences of Hispanics, this study pursued two objectives: (1) to discover whether there is evidence that the criminal justice system treats Hispanics and nonHispanics differently, and (2) if there is such evidence, to determine the extent to which the different treatment can be explained by differences in the types of crimes committed by Hispanics and nonHispanics.

### Data and Methods

Data used for this study consists of official records for 755 male defendants whose most serious offense was robbery or burglary, prosecuted in the state district courts of El Paso, Texas and Tucson, Arizona during 1976-77. Official records provided data on the defendant's characteristics, his prior criminal record, the characteristics of the offense with which he was charged, and the final disposition. In addition to data on official processing, I collected 60 interviews with police, deputy prosecutors, defense attorneys, public defenders, judges, and probation officers in the two jurisdictions.

One problem with much of the prior research on discrimination against minorities by the legal system has been an overly restrictive focus on only one or two processing decisions, which may present a misleading picture of processing outcomes as a whole. To minimize this problem here, I examined a range of processing decisions: (1) type of pretrial release, (2) adjudication type (whether trial or plea), (3) verdict, (4) sentence severity, and (5) total disposition time for defendants who did not receive pretrial release.

### Major Findings

In general, the results showed evidence of less favorable treatment of Hispanics in El Paso but not Tucson.

(See Table S.1 on next page)

In Tucson, Hispanics and whites differed for type of pretrial release and disposition time (though both effects were only significant at  $p < .10$ ), but in both cases Hispanics recieved more favorable outcomes than whites. In contrast, four of the five outcomes in El Paso operated against Hispanics. Compared to whites, Hispanics in El Paso received less favorable pretrial release, were more likely to be found guilty in jury trials, received more serious sentences when they were found guilty by trial, and spent more time in jail awaiting trial. The results did not suggest that individual judges were consistently harsher on Hispanics than whites in either jurisdiction or that Hispanics who committed crimes against whites received more severe sentences.

Table S.1. Summary of Major Findings

Outcome	Evidence of Hispanic-White Differences	
	Tucson	El Paso
Type of pretrial release	proHispanic	antiHispanic
Adjudication type	No difference	No difference
Verdict	No difference	antiHispanic
Sentence severity	No difference	antiHispanic
Disposition time	proHispanic	antiHispanic

## Conclusions

As with most recent research on differential treatment of minorities by the criminal justice system, the results of this study showed that discrimination depends on the jurisdiction and the specific outcome examined. Compared to whites, El Paso Hispanics received less favorable pretrial release. Because the data from El Paso lacked a valid measure of defendant's economic status, it was not possible to determine whether the unfavorable pretrial release outcomes for Hispanics were due to their ethnicity, to their economic status, or to some combination of these. Future research should attempt to determine the extent to which differential economic resources adversely affected El Paso Hispanics, particularly with regard to the pretrial release decision.

A conclusion from these data is that Hispanics seeking trial in El Paso were more likely to be convicted than whites. Qualitative interviews with legal agents in El Paso provided two possible explanations for this outcome. First, the method of providing attorneys to indigent defendants in Texas may work to the disadvantage of Hispanics. In contrast to Tucson, where the Public Defender's Office provided a group of defense advocates with extensive trial experience, El Paso defendants were assigned court-appointed private attorneys. The quality of these attorneys, especially their recent trial experience, is variable. This method of selecting attorneys for indigent defendants introduces a major chance factor into the adjudication process that may have a disproportionately negative effect on Hispanics.



A second explanation for the greater likelihood of conviction by jury trial for El Paso Hispanics was stratification within the Hispanic community. Prior research on Hispanics in the Southwest has combined Spanish-origin groups from widely different backgrounds. For example, El Paso includes a large number of Hispanic families who have lived in the region for many years, as well as many recently-migrated Mexican-Americans and Mexican nationals. The criminal justice experiences of different Hispanic groups may be quite different. Future research should attend specifically to differences within the Hispanic community and their impact on legal treatment.

The fact that Tucson showed little evidence of differential treatment of Hispanics and whites should be emphasized. At the same time, it does not suggest that discrimination is no longer an issue, either in the Southwest in general, or in Tucson in particular. Rather, greater efforts should be directed at identifying exemplary jurisdictions in terms of the legal processing of minority citizens. Also, jurisdictions with a good record at one point in time should be periodically monitored, perhaps by their own staffs. The importance of assuring equal treatment under the law must be seen not as a "one-shot" operation, but as an ongoing evaluation process.

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# OFFICIAL REACTIONS TO HISPANIC DEFENDANTS IN THE SOUTHWEST

## INTRODUCTION

A central question for both politicians and criminologists for many years has been the extent to which the defendant's race affects processing decisions in criminal cases.<1> Most examinations of this question have compared the treatment of black defendants and white defendants by the legal system. A recent review by Savitz (1973) reports over 500 research articles on the treatment of blacks by the legal system (see also, Hagan, 1974; Kleck, 1981). By contrast, little research has been done on the treatment of Hispanics by the legal system.<2> A comprehensive review by Trujillo (1974) reports only eighteen studies dealing with Hispanics and crime, and Carter (1983:226) found only seven articles on Hispanics in the criminal justice system. The neglect of Hispanics by American criminology is difficult to justify given that Hispanics constitute the nation's second largest minority and are one of the fastest growing minorities (Jaffe et al., 1980). They are the largest minority group in the southwestern states of Arizona, California, Colorado, New Mexico, and Texas. The purpose of this study is to address this oversight by comparing official reactions to Hispanic, white and black defendants in two southwestern jurisdictions: Tuscon, Arizona and El Paso, Texas.

### Prior Research on Hispanics and Crime.

Early criminological research often assumed that Hispanics had higher crime rates than the general population, and then offered

explanations. For example, researchers linked Hispanic crime to culture (Handman, 1931; Tuck, 1946), family patterns (Warnhuis, 1931), intelligence (Young, 1922), illiteracy (Warnhuis, 1931) and unemployment (Bogardus, 1943). Besides methodological limitations (e.g., small sample sizes, non-random samples, no control variables, etc.), these early studies usually examined causes of Hispanic criminal behavior rather than differential treatment of Hispanic and nonHispanic defendants.

These patently biased treatments of Hispanics began to give way to a different view of Hispanics in the legal system, evident as early as 1931 in the report of the National Commission on Law Observance and Enforcement (the Wickersham Report). According to this report, Hispanics face heavier police deployment, and compared to other citizens, are more likely to face illegal police practices, language barriers, overt racism, and discrimination in the administration of the law. Other recent sources (e.g., Acuna, 1972; Morales, 1972; Rivera, 1974) reach similar conclusions. For example, the 1970 Commission on Civil Rights' study of the administration of justice in the Southwest concludes that (p. iii), "Mexican-Americans are subject to unduly harsh treatment by law enforcement officers, they are often arrested on insufficient grounds, receive physical and verbal abuse, and penalties which are disproportionately severe."

Unfortunately, while these more recent studies have been useful for drawing attention to potential problems faced by Hispanics in their dealings with the legal system, many of them have been based on little or no empirical research. For example, the 1970 Commission on Civil

Rights collected data by interviewing law enforcement personnel and private citizens, and by holding hearings in several southwestern cities. Yet their published report provides almost no empirical data. <3> Instead the bulk of the report deals with individual cases of official misbehavior. Thus, the Commission describes many specific examples of official misconduct, but provides no data to determine the frequency, extent, or duration of misconduct, nor a baseline for determining how such cases compare to the treatment other citizens receive.

Two recent studies that do explicitly examine official reactions to Hispanic defendants through empirical research are exceptions to the general trend and are thus particularly important. A recent study by Unnever (1982) of 313 convicted male drug offenders in Miami, Florida, found evidence of differential treatment of Hispanics in sentencing: controlling for prior record, seriousness of offense, and number of counts, Hispanics receive longer sentences than whites (but shorter sentences than blacks). However, Unnever's study is limited to one offense and one location and excludes pre-conviction processing decisions.

In a more comprehensive study, Petersilia (1983) examined data from official California criminal justice records and from a survey of 1400 male prison inmates in California, Michigan, and Texas. She reports two major processing differences by offender's race in the criminal justice system: release before a charge is filed, and sentencing. White suspects were less likely than blacks or Hispanics to be released after arrest. However, minority offenders convicted of felo-

nies were more likely than whites to go to prison and received longer prison sentences than whites. Petersilia argues that the disparity between racial groups for post-arrest release is probably due to greater evidentiary problems in cases involving minorities than whites. Whites in the sample were more likely than minorities to be arrested on a warrant. Because the criteria for issuing a warrant are essentially the same as those for filing criminal charges, Petersilia argues that cases involving warrants are less likely to develop evidentiary problems after arrest.

Petersilia's sentencing analysis (p. 67-71) showed that California Hispanics served an average of five months longer in prison than whites and Texas Hispanics served an average of 8.1 months longer. Her analysis controlled for age, type of offense, prior criminal record, and infractions while in prison.

One of the chief difficulties in comparing the experiences of Hispanics and nonHispanics in the criminal justice system is a lack of national crime data distinguishing Hispanics. The major source for official data on crime in the United States, the Uniform Crime Reports, combine Hispanic and white offenders. Two national sources of crime data that allow comparisons of Hispanics and nonHispanics are the Bureau of Justice Statistics annual reports on prisoners in state and federal institutions and the National Crime Panel victimization surveys.

A statistic frequently cited to indicate discrimination against blacks in the criminal justice system is the fact that blacks make up



only 12 percent of the U.S. population, but 48 percent of the prison population. The 1981 Bureau of Justice Statistics Report on Prisoners in State and Federal Institutions included information on Hispanic ethnicity for 80 percent of the prisoners surveyed; 42 of the 52 jurisdictions included. Incarceration rates for Hispanics could be reliably calculated for 27 States. For these States, ten percent of the prisoners were Hispanic. In general, Hispanics were more likely than whites but less likely than blacks to be incarcerated. For example, New Mexico, which had the highest percentage of Hispanic prison inmates in the country, reported that 51 percent of the inmates in the state prison in 1981 were Hispanic. The officially-recorded proportion of Hispanics in the State of New Mexico is 36.6 percent. (U.S. Department of Commerce, 1982). Arizona reports that 24 percent of state prison inmates were Hispanic in a state population that is 16.2 percent Hispanic. Texas reports that 19 percent of the state prison population is Hispanic compared to a state population that is 21.0 Hispanic. Thus, while there is evidence that Hispanics are imprisoned at a rate which exceeds their proportions in the general population, this disparity is lower than it is for blacks.

The National Crime Survey (NCS) collected by the Justice Department since 1973, also allows some comparisons between Hispanic and nonHispanic crime victims.<4> An NCS report in 1981 shows that compared to white males, Hispanic males are more likely to be victims of violent crime, but less likely to be victims of property crime. Hispanic women are less likely than white women to be victims of personal larceny. The NCS survey found no statistically significant differences between Hispanics and nonHispanics with regard to reporting violent

crime, burglary, or motor vehicle theft to police, but victimized Hispanics were less likely than nonHispanics to report household and personal larcenies. The NCS data, like the data on race-ethnicity of prison inmates, suggest that there are differences in victimization rates for Hispanics and nonHispanics, but these differences are not as great as they are for blacks and nonblacks.

Because it has generated so much research interest, the literature on differences in the legal system's treatment of blacks is potentially useful for identifying issues relevant to the treatment of other minorities, including Hispanics. But the implications of this literature are not straightforward. Recent studies have become more methodologically rigorous, but their results remain contradictory. Thus, a large number of studies report no evidence of discrimination against blacks (e.g., Burke and Turk, 1975; Chiricos and Waldo, 1975; Bernstein, Kelly and Doyle, 1977; Cohen and Kluegel, 1978), while an equally impressive number find evidence of discrimination against blacks (e.g., Hagan, 1975; Swigert and Farrell, 1977; Lizotte, 1978; Thomson and Zingraff, 1981; Petersilia, 1983).

How can we reconcile these contradictory findings? One possibility is that discrimination against blacks is diminishing over time. Given the fact that the United States was once a society that allowed slavery and legally sanctioned different treatment for blacks and whites, this statement is true a priori. The fact that fewer recent studies than earlier studies find discrimination against blacks also supports this interpretation. For example, in a review of earlier research on discrimination against blacks in the criminal justice system, Hinde-

lang (1969) argues that divergent findings are explained in part by the fact that studies finding discrimination used data that were older than studies finding no discrimination. This interpretation is also consistent with a recent evaluation of the discrimination literature by Kleck (1981), who reviewed 40 studies which examined the effect of race on sentencing in noncapital cases; 12 studies completed before 1970 and 28 studies completed in 1970 or later. Of the 12 pre-1970 studies, eight (66.7 percent) found evidence of discrimination against blacks in sentencing. By contrast, of the 28 post-1970 studies, only 12 (42.8 percent) concluded that blacks were discriminated against in sentencing.

Although the conclusion that discrimination is declining must be considered tentative, it does seem safe to conclude that while researchers are still finding evidence of discrimination against blacks, it is less obvious and overt than some earlier research (e.g., Chambliss, 1969; Quinney, 1970) led us to expect. Of course the issue of how much discrimination is substantively important cannot be empirically resolved. For example, Kleck (1981:783) asserts that the evidence "largely contradicts a hypothesis of overt discrimination against black defendants", but later concedes (p. 799) that "there is evidence of discrimination for a minority of specific jurisdictions, judges, crime types, etc." On the other hand, Petersilia (1983:90) concludes that "Minorities were more likely to receive sentences instead of probation" and "they also received longer sentences." But elsewhere (p. vi) she notes that "the case processing system generally treated offenders similarly." Thus, whether researchers see the justice "cup" as "half empty" or "half full" may have more to do with

their assumptions and predilections than their empirical research. It does seem fair to conclude that most recent research that has found evidence of discrimination against blacks is consistent with the idea that differential treatment may depend on specific circumstances, including the year in which the case was processed (Thomson and Zingraff, 1980), the sentencing judge (Gibson, 1978), the racial composition of the victim-defendant dyad (Farell and Swigert, 1978; LaFree, 1980), the type of offense (LaFree, 1980; Unnever, 1982), and the region of the country in which data were collected (Hagan, 1974; Kleck, 1981).

What implications, then, does prior research on discrimination against blacks have for research on Hispanics? First, even for those recent studies which conclude that race has an effect on criminal processing outcomes, it is less important than a variety of other variables. This probably explains why conclusions about whether there is discrimination against blacks in a particular study depend on the variables included in the analysis, the types of crime studied, and the region of the country in which the data were collected. Assuming that Hispanics are treated no worse by the criminal justice system than blacks, we might expect that evidence of discrimination against Hispanics will be less obvious than it has been in studies of black defendants.

Second, the criminal justice system operates like a "sieve" in which police process the largest number of suspects, the prosecution fewer and the courts fewer still. By examining only one decision in isolation, we may reach misleading conclusions. The full implications

of this are apparent in the study by Petersilia (1983). Petersilia examined processing decisions from arrest to sentence actually served, but found race differences only for certain outcomes. For example, she reports no evidence of racial differences in the probability of arrest, the type of charge filed, or the probability of conviction. By contrast, she finds statistically significant differences in the type and length of sentence imposed. These findings suggest that contradictory conclusions about discrimination may be due in part to the scope of different analyses. More generally, studies which examine only one or two processing outcomes may not accurately reflect the effect of processing as a whole. Thus, the greater the number of decisions examined, the more confident we can be about the conclusions reached.

Finally, as research on race discrimination in official reactions to crime has accumulated, several variables have repeatedly emerged as important predictors of criminal justice decisions, regardless of the defendant's race. In a recent review of discrimination studies for the National Academy of Sciences panel on sentencing, Garber et al. (1982) conclude that three factors are particularly important for processing outcomes in criminal cases: seriousness of the offense, quality of the evidence, and defendant's prior criminal record. Petersilia provides (1983:17) a more extensive list of nine variables that she claims may affect outcomes regardless of race: severity of offense, degree of violence involved, multiple charges, seriousness of initial charge, seriousness of prior criminal record, possession of weapons, failure to make bail, length of pretrial detention, and type of attorney (i.e., privately-paid lawyer, public-appointed lawyer, or

public defender). Certainly, studies that attempt to improve our understanding of the effect of race or ethnicity on official reactions to crime should control for differences between cases based on variables other than race to the fullest extent possible.

For the most part, criminologists have ignored the criminal justice experiences of the nation's second largest minority group. The present research aims to improve our understanding of the criminal justice system's treatment of Hispanics by comparing official processing decisions made for Hispanic, black, and white defendants. My specific purpose is to determine whether and to what extent official outcomes and their determinants vary by the race of the defendant.

#### DATA

Data for this study are from official records and interviews with legal agents in Pima County (Tuscon), Arizona and El Paso County, Texas.<5> I examine case processing information on 755 male defendants whose most serious offense was robbery or burglary.<6> These data were originally collected by the Institute of Criminal Law and Procedure, Georgetown University Law Center, under a grant from the National Institute of Justice (see Miller, McDonald and Cramer, 1978; Miller, 1980), and include defendants prosecuted during 1976-1977. The researchers collected information on each defendant from prosecution and court records. These records provide data on the defendant's characteristics, his prior criminal record, the characteristics of the offense with which he is charged, and the final disposition.

Hispanics comprise 62.9% of the El Paso defendants and 26.2% of the



Tucson defendants.<7> Blacks account for 8.2% of the El Paso defendants and 18.4% of the Tucson defendants. According to the 1980 census, Hispanics constituted 61.9% of the total El Paso population and 21.0% of the Tucson population; blacks made up 3.8% of the El Paso population and 2.8% of the Tucson population.

Jaffe et al. (1980:123) report that in 1970, the five southwestern states (i.e., Arizona, California, Colorado, New Mexico and Texas) contained 90 percent of all Mexican-Americans. While California and Texas have the highest absolute number of Hispanics, Arizona, New Mexico, and Texas have the highest proportion (U.S. Department of Commerce, 1977). And within these states, Tucson, Albuquerque, and El Paso are the three cities with populations over 250,000 that have the highest proportion of Hispanics.<8>

In addition to data on official processing, I collected 60 interviews with police, deputy prosecutors, defense attorneys, public defenders, judges, and probation officers in Tucson and El Paso. The interviews were structured, open-ended schedules, based on earlier instruments (especially LaFree, 1979; Hagan et al., 1980; LaFree et al., 1982). These interviews provide data on (1) the social organization of both systems, including the social, political and legal environment and how it changed in the last decade; (2) individual decision-making processes, especially with regard to Hispanic defendants and crime victims; (3) perceptions of decision-making processes in the legal system in general; (4) perceptions of decision-making in other parts of the system (e.g., deputy prosecutor's perceptions of police decision-making, etc.); and (5) individual perceptions of change in

the system, especially with regard to the processing of Hispanic defendants.

The taped interviews lasted from 45-90 minutes. I use the interviews to (1) determine relevant variables for the analysis, (2) determine the most appropriate coding of variables included, (3) interpret the statistical results, and (4) provide information on differences between jurisdictions and changes in system organization and functioning over time.

#### OFFICIAL REACTIONS TO ROBBERY AND BURGLARY DEFENDANTS

Table 1 shows the percentage of Hispanic, black and white defendants in the criminal justice system for six criminal justice decision-points. If the criminal justice system discriminates against Hispanics, we should find a higher proportion of Hispanics in the criminal justice system in later than in earlier processing stages. In general, Table 1 does not support this interpretation. About 63% of the El Paso sample was Hispanic, 61% of those who received prison terms and 57% of those offenders receiving sentences of more than five years were Hispanic. Hispanics comprised 26% of the defendants in the Tucson sample; 27% of the offenders who received prison sentences, and 22% of the convicted offenders who received sentences of more than five years. In both El Paso and Tucson, Hispanics were more likely than nonHispanics to plead guilty. Among El Paso defendants who were tried, Hispanics were more likely than nonHispanics to be found guilty. By contrast, among Tucson defendants who were tried, Hispan-

ics were less likely than nonHispanics to be found guilty. The overall conviction rate for Hispanics is within one percentage point of their total rate in the Tucson sample.

In summary, although there are differences between Hispanics and nonHispanics in Table 1--most notably a greater chance of conviction by jury trial in El Paso and a lesser chance of conviction by jury trial in Tucson-- there is little evidence of systematically different outcomes for Hispanics and nonHispanics from these percentages.

(See Table 1, Appendix I)

Table 2 compares median number of charges for Hispanic, black, and white defendants in El Paso and Tucson. Table 2 shows that in El Paso, Hispanics started with fewer charges than blacks or whites and received a very slight increase in the median number of charges between arraignment and conviction. Thus, for Hispanics in El Paso, more charges were added than dropped between arraignment and conviction. Median number of charges for blacks in El Paso declined slightly and remained the same between arraignment and conviction for whites. In Tucson, Hispanics had slightly more charges than blacks or whites at arraignment, but received about the same median reduction in charges as white and blacks. Table 2 shows that overall reduction in median number of charges from arraignment to conviction was greater for Tucson than El Paso. The difference between jurisdictions is probably explained by the fact that El Paso had recently instituted strict rules on plea bargaining (see Miller, 1980; LaFree, 1981).

But, in general, the most striking result in Table 2 is the similarity between median charges at arraignment and conviction for Hispanics, blacks, and whites in the two jurisdictions. In El Paso, the difference in median number of conviction charges between the lowest group (Hispanics) and the highest (blacks and whites) is only .08. For Tucson, the difference is only .03 from the lowest median score (blacks) to the highest (whites). In short, Table 2 offers little support for the idea that Hispanics were treated differently than nonHispanics with regard to charging decisions in these legal systems.

(See Table 2, Appendix I)

Table 3 compares the median seriousness of arraignment and conviction charges for Hispanics, blacks and whites. As with total number of charges, charge seriousness declined more between arraignment and conviction in Tucson than El Paso. But again, Table 3 does not suggest that Hispanics received less favorable charge reductions than other defendants. In El Paso, both initial charge seriousness and charge reduction between arraignment and conviction are nearly identical for Hispanics, blacks and whites. The most obvious difference in treatment by race in Table 3 is for charge reductions in Tucson, but the results suggest that Hispanics received more rather than less favorable outcomes. In Tucson, Hispanics begin with less serious charges than blacks and whites and receive greater charge reductions between arraignment and conviction than either blacks or whites.

(See Table 3, Appendix I)

The simple frequencies presented thus far do not provide much support for the prediction of more severe sanctions and less favorable processing outcomes for Hispanics compared to nonHispanics. However, simple bivariate comparisons may be misleading. A more precise test for discrimination should examine a variety of processing outcomes and control for the possibility that there are important case differences for defendants of different racial groups. This is the task I now turn to.

#### TESTING FOR DISCRIMINATION IN THE APPLICATION OF THE CRIMINAL LAW

Table 4 shows the variables and their coding for this part of the analysis. Race is coded as two dummy variables with "whites" being the excluded category. The major question in this part of the analysis is whether Hispanic defendants received less favorable processing outcomes than whites or blacks, controlling for case seriousness and other offense characteristics. I include four measures of the defendant's prior criminal record and behavior. The most important of these is criminal record, a weighted index of prior convictions. Record of drug or alcohol abuse was coded positively if either type of behavior was alleged in official records. Probation, parole or pretrial release was coded positively if the defendant was classified in any of these categories at the time of the offense.

The analysis includes four measures of offense seriousness. Statutory seriousness is a measure of the mean number of years prescribed by law in each state for the most serious charge against the defendant

at the arraignment. Number of counts measures all charges against the defendant at the arraignment. Because the importance of each additional charge is probably less than the importance of the charge that preceded it, I used a log transformation of the number of counts in the analysis. "Type of crime" is a dummy variable, coded positively if the case involved robbery. "Weapon" is coded positively if any mention of a weapon was made in the case file.<9>

(See Table 4, Appendix I)

Economic status has frequently been examined as a determinant of criminal justice outcomes (e.g., Chiricos and Waldo, 1975; Frazier et al., 1980; Unnever, 1982). But, as is often the case with official records, these data did not include reliable measures of education or job status. However, for Tucson, data were available on whether the defendant was employed. Unnever et al. (1980:201) argue that for low socioeconomic groups, being employed may give the clearest indication of being a member of the "stable" working class. Following this logic, I distinguish between defendants who were employed at the time of their arrest and all others.

The last four variables in Table 4 are the dependant variables. Adjudication type measures whether the defendant went to trial or pled guilty. Pretrial release status is a three-point scale with "2" being the least favorable and "0" the most favorable release status. For those defendants who were tried, "verdict" measures the outcome. The coding of the sentence severity measure derives from the efforts of Tiffany, Avichai and Peters (1975), and Hagan, Nagel and Albonetti

(1980) to devise an approximate interval scale of the severity of sentencing options.<10>

### Pretrial Release

Whether the defendant secures release and if so, the type of release secured, has both immediate and longer-term implications for the defendant. An immediate implication of not making bail is the unpleasantness of jail. In the longer-term, failure to make bail may reduce the power of the defendant to defend himself by eliminating the income he would ordinarily receive during the period of detention if he were free (Wald, 1964), by reducing his ability to aid his attorney in his own defense (Foote, 1958; Wald, 1964), and by predisposing legal agents to recommend more serious sentences (e.g., Rankin, 1964; Skolnick, 1967). My specific interest in examining determinants of pretrial release status here is to determine whether compared to other defendants, Hispanics received unfavorable pretrial release outcomes.

Table 5 shows the results of regressing pretrial release status on the independent variables. Contrary to the expectation of discrimination against Hispanics, Hispanic defendants in Tucson received more favorable pretrial release than other defendants (although the effect is relatively small). Being black had no effect on pretrial release outcomes in Tucson. In contrast, both Hispanic and black defendants received less favorable pretrial release outcomes in El Paso. Moreover, the effect of race on pretrial release was stronger in El Paso than Tucson. The standardized regression coefficients in Table 5 show that being Hispanic was the single best predictor of an unfavorable

pretrial release decision in El Paso--more important than prior criminal record or seriousness of the offense.

(See Table 5, Appendix I)

Tucson defendants who were on probation, parole, or pretrial release at the time of the offense, who had more serious charges against them, who had prior criminal records, and who were older, received less favorable pretrial release outcomes. Consistent with prior literature (e.g., McIntyre, 1967), employed defendants received more favorable pretrial release dispositions. Also, Tucson defendants with alleged alcohol abuse problems received more favorable pretrial release outcomes.

In El Paso, only one variable besides defendant's race significantly affected pretrial release status: defendants who were on probation, parole or pretrial release at the time of the instant offense received less favorable pretrial release outcomes.

#### Adjudication Type

Guilty pleas currently account for 80 to 90 percent of all felonies adjudicated in the United States (Newman, 1966; Blumberg 1967). Unnever (1982) and others (e.g., Alschuler, 1975) have argued that differential access to favorable plea agreements may constitute a form of "structural discrimination." For example, if minority defendants are less likely to have access to favorable plea agreements, different treatment of Hispanics may be mediated by type of adjudication. This is the conclusion reached by Petersilia (1983:26) in her study of



black, Hispanic, and white defendants in California. Petersilia found that only 7 percent of whites were tried by bench or jury, compared to 12 percent of blacks, and 11 percent of Hispanics.

The relationship between race and adjudication by jury trial in these data are substantially different from the results reported by Petersilia. In El Paso, 32 percent of blacks, 21 percent of Hispanics and 10 percent of whites were tried by judge or jury. By contrast, in Tucson, 12.5 percent of blacks, 8.3 percent of whites, and 4.4 percent of Hispanic defendants were tried. The fact that a much larger proportion of all defendants were tried in El Paso than Tucson is explained by the El Paso County District Attorney's recently enacted official policy that prohibited his assistants from plea bargaining once his office had filed felony charges. Consistent with Petersilia's findings, both blacks and Hispanics in El Paso were more likely than whites to go to trial. In contrast, Tucson Hispanics were less likely than nonHispanics to go to trial. Instead, blacks were most likely to go to trial, Hispanics were least likely to go to trial, and whites were midway between the two in terms of trial likelihood.

Petersilia (1983) presents only percentages and no control variables in her analysis of adjudication type so it was not possible to determine whether the differences she reported were statistically significant. To determine whether Hispanic, black, and white defendants differed significantly with respect to adjudication type in these data, I next performed a multiple discriminant analysis of the adjudication outcome (Cooley and Lohnes, 1971; Hair et al., 1979). Discrimi-

minant analysis is an appropriate statistical technique for analysis of models in which the dependant variable is measured at the nominal level and the independent variables are measured at the interval or ordinal level.

Table 6 shows the discriminant function coefficients, group centroids, and canonical correlations for defendants who pled guilty or were tried in Tucson or El Paso. The standardized discriminant function coefficients measure the relative contribution of each variable to each function.<11> Independent variables with large discriminatory power generally have large weights and those with little discriminatory power have small weights. The direction of the relationship is shown by the group centroids. For example, according to Table 6, black defendants in Tucson had a coefficient of .513. This means that black defendants were more likely to go to trial than plead guilty. "Number of counts" has a coefficient for Tucson of -.375. Thus, cases adjudicated by trial involved fewer counts than cases settled by guilty plea. To assess the relative importance of each variable for classifying cases as adjudicated by trial or guilty plea, I included Rao's V (1952:257), a generalized distance measure of dispersion.<12>

(See Table 6, Appendix I)

Table 6 shows that Hispanic defendants were not significantly more likely than other defendants to go to trial in either Tucson or El Paso. In contrast, black defendants were more likely to go to trial in both jurisdictions. In Tucson, black defendants, defendants with more serious criminal records, defendants with alcohol problems, and

defendants who allegedly used a weapon were more likely to go to trial. Cases involving more charges were less likely to go to trial. In El Paso, black defendants, defendants with more serious criminal records, defendants alleged to be drug abusers, defendants who allegedly used a weapon to commit the offense, and defendants who had less favorable pretrial release decisions were more likely to go to trial. As in Tucson, cases involving more charges were less likely to be tried.

The results provide no direct evidence of discrimination against Hispanic defendants in terms of adjudication type. However, the results do show that blacks in both jurisdictions were more likely to be tried. To the extent that adjudication by guilty plea results in less severe sanctions than adjudication by trial, this may be evidence of indirect discrimination against blacks.

#### Jury Trials

More research and attention has probably been focused on jury trials in criminal cases than any other processing decision. In terms of the proportion of cases tried, this emphasis is misdirected: only 118 (15.6 percent) of the 755 cases filed as felonies in these data were adjudicated by jury or bench trial (see Table 4). However, the importance of trials is much greater than their relatively small numbers suggest. For example, prior research shows that the possibility of a trial affects the police decision to arrest (LaFave, 1965), the prosecution decision to dismiss a case (Kalven and Zeisel, 1966; Rosett and Cressey, 1976), and the nature and credibility of plea agreements (Blumberg, 1967; Dawson, 1969). Moreover, jurors are the

only amateurs in the criminal justice system. They are not professionally trained to contain their prejudices (Brooks and Doob, 1975:180), nor are they constrained by the same formal and informal pressures faced by professional members of the criminal justice bureaucracy (Neubauer, 1974; Eisenstein and Jacob, 1977). Thus, we might expect jurors more than professional legal agents to be influenced by their race and ethnic prejudices.

Because verdicts are categorical outcomes (guilty/not guilty), I use discriminant analysis. The variables included are the same as those used in the analysis of adjudication type. Of 65 trials in Tucson, 13 (20%) were adjudicated by judges. Of 53 trials in El Paso, 9 (17%) were adjudicated by judges. Because different processes might influence jury and bench trials, the analysis of verdicts is limited to jury trials.<13> The results are shown in Table 7.

(See Table 7, Appendix I)

Being Hispanic or black had no effect on verdicts in Tucson. In contrast, being Hispanic was a significant predictor of guilty verdicts in El Paso.<14> The difference between the two cities was unexpected. Officially, Hispanics comprise over 61% of the citizenry of El Paso, and because of the close proximity to the Mexican border, unofficial estimates place the actual figure much higher. Thus, in El Paso, Hispanics are not technically a minority. By contrast, Hispanics officially comprise only about 21% of the population of Tucson. What explains the fact that Hispanics were no more likely than whites to be convicted by juries in Tucson--a city where they are a clear

minority--than El Paso, a city where they comprise a majority?

Of the 45 jury trials in Tucson for which I had complete data, only 12 (26.7%) resulted in acquittal; only eight (20%) of the 40 El Paso trials resulted in acquittal. The small number of cases analyzed suggests that we interpret the results with caution. Nonetheless, interviews with criminal justice officials in both cities suggested several explanations for why Hispanics might face a greater chance of conviction by jury in El Paso than Tucson. First, although I combine all Hispanics in the analysis, the Hispanic community is, of course, highly diverse. As defined by official records, Hispanics in El Paso include everyone from prominent Hispanic businessmen, whose families may go back many generations in the Southwest, to recently migrated, unemployed or underemployed Mexican nationals. One possibility is that jurors in El Paso, which include many upper and middle-class Hispanics, are harsher than jurors in Tucson on lower-class Hispanic defendants. This interpretation was generally supported by interviews with legal agents in El Paso. For example, one assistant District Attorney in El Paso told us, "The older Mexican Americans tend to be pretty conservative, they will nail you (i.e., defendants)." An El Paso defense attorney offered a similar opinion: "I've had middle class Mexican-Americans on my jury, and boy they just rammed it at the defendant."

Second, another difference between the two jurisdictions that might help explain the results relates to the type of defense provided indigent defendants in the two cities. Tucson defendants unable to provide for their own defense are assigned a public defender. Tucson is

one of two cities in the state of Arizona with a public defender's office (the other is Phoenix). Interviews with public defenders in Tucson indicated that they generally pursue an aggressive, adversarial stance toward the District Attorney's Office. In response to a question about how the Tucson Public Defender's Office differed from the one in Phoenix, one Tucson public defender told us:

It's my impression that our defender's office here is more adversarial--has a more adversarial relationship with the prosecutors. I think that the public defenders in Phoenix are much more prone to quickly plead a case out than we are. I think that's the basic difference.

Another Tucson public defender said simply, "It's more of a combat mentality here."

Not only was the general stance of attorneys in the Tucson Public Defenders Office adversarial, they also tended to be strongly pro-defendant. Several Tucson public defenders we interviewed indicated that they thought minorities and lower class defendants were generally discriminated against by the criminal justice system and described their role as providing the best possible defense for these defendants. One Tucson public defender told us:

Unless you're really rich, you can't afford your own attorney in a criminal case. And so it would seem to me that somehow we could gang-up more and work as a team more and really fight the prosecutor, because we have the numbers to do it.

An assistant in the Tucson County Attorney's Office offered a related view:

I am very close to the Public Defenders Office and there are some

people in the public defenders office who are more qualified than a lot of people who are hired to represent somebody. They are more tenacious. They are more willing to fight for their client. They work very closely with the criminal law, so they know the criminal law better than somebody who doesn't do a lot of criminal law. And they will give somebody who is indigent and of a minority group a much better defense than some of the attorneys (privately) retained.

By contrast, Texas does not have a public defender system. Instead, judges maintain lists of private attorneys who handle criminal cases. Attorneys are randomly assigned to defendants who cannot afford their own counsel from these lists. Thus, there is no established group of defense attorneys who perceive their relationship to the prosecuting attorney as adversarial, who believe that poor defendants and minority defendants are generally not treated fairly by the criminal justice system, and who associate with other attorneys who reinforce these views. In an evaluation of the court-appointed attorney system, one El Paso probation officer told us:

The court-appointed attorneys are, you know, they are just out to get the money. And they really don't represent the guys fairly. So I think in a sense, the minorities get the short end of the stick.

Finally, another partial explanation for the higher conviction rate by jury trial for El Paso Hispanics may be language impediments. Language difficulties were cited by the 1970 Commission on Civil Rights (pp.66-74) as a major block to equal legal treatment for some south-

western Hispanics. One El Paso judge with extensive criminal justice experience explained that, "Ability to express oneself in court is important, if the defendant cannot do it (i.e., speak English) as well, or if he has a translator, he simply won't come across as well." Criminal justice agents both in El Paso and Tucson stressed that the legal system makes serious efforts to provide defendants who cannot speak English with translators. But our qualitative interviews suggested that criminal justice agents were more likely to cite language as a problem for defendants in El Paso than Tucson. For example, a Tucson public defender told us:

I usually don't get assigned people who speak primarily Spanish because I speak only limited Spanish. In terms of the way judges treat them, I think most judges don't treat them differently.

A Tucson assistant district attorney added, "There seems to be an ample number of not only police officers that speak Spanish, but lawyers that speak Spanish." In contrast, an El Paso assistant district attorney told us:

The county doesn't have enough translators to inform those people (i.e., those who do not speak English) full time what's going on. In other words, when they are in trial, the translator or the interpreter will only help them part time--during various phases of the trial they're not there.

While the qualitative interviews cannot provide a definitive answer to this issue, they suggest generally that legal agents in both communities believe the criminal justice systems are making greater efforts than before to reduce the disadvantages to defendants of not speaking English, but that problems along these lines still remain--especially



in El Paso.

Determinants of verdicts in Tucson were record of alcohol abuse and defendant's employment and pretrial release status. Defendants with alleged alcohol abuse problems, unemployed defendants and defendants who received less favorable pretrial release outcomes were more likely to be found guilty.

Because of the often close association between employment status and race, I considered the possibility that the effect of race on verdicts in Tucson was being eliminated by the effect of employment status. But this interpretation was not supported by the zero-order correlation between employment status and being Hispanic ( $r=.00$ ). Moreover, the effect of being Hispanic on verdicts in Tucson was not changed by excluding the employment variable from the analysis. Thus, it appears that Hispanics were no more likely to be convicted than whites in Tucson and that this fact is not explained by their different employment statuses.

The only significant determinant of verdicts in El Paso other than defendant's race was the seriousness of the offense. Statutorily serious cases were less likely to result in convictions. This counterintuitive finding may reflect hesitancy on the part of jurors to convict in cases where the probable severity of sanctions for defendants is greater.

Given the small number of jury trials examined, any conclusions regarding determinants of verdicts should be made with caution. Nonetheless, there is evidence from these data that Hispanic defend-

ants in El Paso were more likely to be convicted by jury trial, controlling for many case characteristics.

### Sentence Severity

For the offender, final sentence is probably the single most important outcome of the criminal selection process. Much of the research on discrimination in the application of the criminal law has focused on sentencing (for reviews, see Dawson, 1969; Hagan, 1974; Kleck, 1981; Garber et al., 1982; Petersilia, 1983).

Sentencing procedures are fundamentally different in Tucson and El Paso. In Tucson, sentencing is the sole responsibility of judges. In El Paso, defendants may choose to be sentenced by jury. Although I lacked quantitative data on this issue, judges and defendants in El Paso generally believed that juries were likely to return more lenient sentences than judges. An El Paso Judge explained:

Our statistics show judges are harder (on defendants). Judges are harder in sentencing practices than juries. Juries are more prone to give probation.

The major sentencing options for convicted offenders in the two jurisdictions are (1) probation, (2) jail or prison, and (3) sentences split between probation and jail or prison. Table 8 shows that for both Tucson and El Paso, Hispanics received executed sentences (either prison or jail, or prison or jail and probation) about two percent more frequently than whites.

(See Table 8, Appendix I)

Perhaps the most striking feature of Table 8 is the percentage of blacks who received prison sentences in both jurisdictions. The difference between sentences received by whites and blacks in Tucson was 13.5 percent, and in El Paso, 37.5 percent. Blacks officially constitute only 3.8 percent of the Tucson population and 2.8 percent of the El Paso population (U.S. Department of Commerce, 1977). However, both cities adjoin military bases that include a much larger percentage of blacks (in Tucson, Davis Monthan Air Force Base; in El Paso, Fort Bliss Army Base). Legal agents in both cities cited these military installations as major contributors to crime problems in each community.

Table 8 also shows that probation was a more common sentence in El Paso than in Tucson. Several judges in El Paso attributed their greater use of probation to a set of sentencing guidelines developed by Judge Sam Callan, and adopted by several of the other judges. Thus, the general sentencing patterns in the two jurisdictions are that defendants in El Paso were more likely than Tucson defendants to receive probation upon conviction, but sentenced defendants received longer average terms in El Paso than Tucson.

In the multivariate analysis of final sentence, I was concerned with two types of differential processing by race. Direct evidence, that is, do Hispanic and black defendants receive different sentences than white defendants, controlling for the other independent variables? And indirect evidence, that is, does the defendant's race

affect final sentences indirectly through statistical interaction with other independent variables?

The analysis of sentencing included the same variables as described above with the exception that three earlier decisions, pretrial release status, adjudication type (i.e., guilty plea or trial), and type of trial (i.e., bench or jury) are also included. To determine whether the effect of the independent variables was different for Hispanic defendants, I included product terms (independent variables by race of offender; Hispanics equal "1", others equal "0"). I analyzed all independent variables and their corresponding product terms for both Tucson and El Paso defendants. None of the race by independent variable product terms were significant in Tucson. Thus, there was no evidence that being Hispanic affected sentences indirectly in Tucson through statistical interaction with other variables. I present the main effects for Tucson in Table 9.

(See Table 9, Appendix I)

Table 9 shows that Hispanics and blacks in Tucson did not receive more severe sentences than whites. The best predictor of sentence severity in Tucson was statutory seriousness--more serious charges resulted in more serious sanctions. Defendants with a more extensive criminal record, who had more charges against them, who had records of drug abuse, or who were on probation, parole or pretrial release at the time of the instant offense, received more severe sentences. Defendants with alleged alcohol abuse problems received less severe sentences. Consistent with prior research (e.g., Landes, 1974;

Unnever, 1982; Garber et al., 1982), defendants who received less favorable pretrial release outcomes also received more severe sentences.

For El Paso, I found significant interactions between race and (1) adjudication type and (2) defendant's criminal record. Table 10 shows a regression of sentence severity on the significant independent variables and their corresponding product terms. To allow an interpretation of the product terms I have retained the nonsignificant variables whose product terms were significant.

(See Table 10; Appendix I)

The two product terms included in Table 10 were both highly correlated with their corresponding independent variables (for criminal record and its product term  $r=.92$ ; for adjudication type and its product term  $r=.81$ ). The collinearity between these variables probably accounts for the fact that the zero-order correlation between the defendant's criminal record and sentence severity is large and positive while the standardized regression coefficient is large and negative. Examination of other coefficients in Table 10 suggested no other obvious collinearity problems. The product term for adjudication type indicates that for Hispanics only, guilty verdicts result in more severe sentences than guilty pleas ( $-.14 + (.36) = .22$ ). The product term for criminal record shows that defendants with serious criminal records received more severe sentences, but this effect was less important for Hispanics than other defendants ( $.92 + (-.56) = .36$ ).

In order to help determine whether these effects were an artifact of collinearity between the independent variables, I next estimated separate models of sentence severity for Hispanics and whites. These models included the same independent variables as in the previous analysis, but no product terms. The results (not presented in tabular form) confirmed the above interpretations. The standardized coefficients (betas) for adjudication type showed that Hispanic defendants found guilty at trial received less severe sentences ( $B = .20$ ) than Hispanic defendants who pled guilty. Although the main effect for adjudication type is not significant in Table 10, the direction of the effect is the same as suggested from estimating separate models for Hispanics and whites. Thus, for El Paso defendants whose cases were tried, Hispanics received more severe sentences than whites.

An examination of the standardized regression coefficients for defendant's criminal record (not presented in tabular form) estimated separately for Hispanics and whites, supports the interpretation that criminal record has a greater effect on sentence severity for whites than Hispanics (for whites,  $B = .54$ ; for Hispanics,  $B = .28$ ). The effect of criminal record on sentence severity may be due to the fact that El Paso had recently adopted a set of sentencing guidelines which assigned great importance to prior criminal record. Sentences were also more severe when charges were more serious, there were multiple counts, the case involved a weapon and the defendant had an unfavorable pretrial release status. Sentences were less severe for bench than jury trials.

The results thus far are generally consistent with recent research

on discrimination against black defendants in the application of the law: I found evidence of discrimination, but it was limited to particular processing decisions and one of two jurisdictions. In Tucson, Hispanics received more favorable pretrial release outcomes than other defendants, and the defendant's race had no effect on outcomes for adjudication type, verdict, or sentence severity. By contrast, in El Paso, Hispanics received less favorable pretrial release outcomes than other defendants, were more likely to be convicted in jury trials and received more severe sentences when they were found guilty by trial. Moreover, being Hispanic had an indirect effect on adjudication type and sentence severity through its effect on pretrial release status. El Paso defendants with less favorable pretrial release outcomes were more likely to go to trial and received more severe sentences when they were tried. Probably the most important evidence of discrimination was found in the analysis of jury verdicts for El Paso, which showed that being Hispanic was the single best predictor of guilty verdicts.

Other Sources of Discrimination  
in Legal Processing

In addition to the processing outcomes already examined, the data allowed me to test for three other possible sources of discrimination by race. First, several researchers (e.g., LaFave, 1965:497; Freed and Wald, 1964:39-45; Casper, 1972:68) have argued that defendants who are detained prior to their trial are in effect being punished before their guilt or innocence is determined. According to this reasoning,

the longer the detention before trial, the greater the punishment.

Second, several researchers (e.g., Eisenstein and Jacob, 1977; Gibson, 1978) have found that sentencing decisions vary greatly for individual judges. For example, Gibson's study of sentencing in a Georgia county showed that individual judges gave significantly different sentences to blacks and whites. Some judges were "pro-black," others "anti-black", and others, "nondiscriminatory." Gibson found that judges' sentencing behaviors were related to their attitudes toward southern culture, toward blacks, and toward sentencing.

Finally, recent research (e.g., Farrell and Swigert, 1978; LaFree, 1980) shows that official reactions to crime may be influenced by the racial composition of the victim-defendant dyad. For example, Farrell and Swigert (1978) found that males accused of slaying females received the most severe sentences of any victim-defendant combination while females held in the death of males received the least severe sentences. Similarly, LaFree (1980) found that black men as a group received official sanctions similar to white men in rape cases, however, black men accused of raping white women received more serious sanctions than defendants in either white or black intraracial rape cases.

In Tucson, 169 defendants, and in El Paso, 123 defendants were detained in jail prior to the adjudication of their cases. The median time between arrest and final disposition was longer in El Paso, where it averaged 117 days, than Tucson, where the average was 100 days. In general, Hispanics spent less time in jail awaiting adjudication than whites or blacks in Tucson, but more time than whites or blacks in El



Paso. Median number of days detained in Tucson was 92.2 for Hispanics, 107.7 for whites, and 106.5 for blacks. In El Paso, median days detained was 117 for Hispanics, 118 for whites and 117 for blacks. To determine whether these differences were significant controlling for case differences, I next regressed disposition time (in days) on the independent variables for Tucson and El Paso defendants who were detained.

Table 11 shows that detained Hispanics in Tucson received shorter disposition time (although at the  $p \leq 0.10$  level) while Hispanics in El Paso received longer disposition time, controlling for the other independent variables. The consequence of this effect, especially for El Paso, was not trivial. El Paso Hispanics who were detained spent an average of 56 more days in jail than whites or blacks, controlling for the other independent variables.

(See Table 11, Appendix I)

The present data were limited in that I had no systematic information on the characteristics or attitudes of judges in the two jurisdictions. However, these data did include the identity of the judge at sentencing. Table 12 shows the mean severity of sentences for Tucson and El Paso judges who presided at sentencing over at least 25 of the cases in the data.

(See Table 12, Appendix I)

In general, Table 12 does not support the conclusion that individual judges systematically discriminated against Hispanics in either jurisdiction. In El Paso, two judges presided over sentencing in 177 (89.4%) of the cases. For both judges, Hispanics received less severe sanctions than either whites or blacks. However, at least two factors probably reduced the effect an individual judge might have on sentencing in El Paso. First, because Texas law allows convicted offenders to be sentenced by jury, in an unknown number of these cases, the judge was not setting a sentence, but only presiding over a sentencing jury. Second, the two judges who presided over most of the sentencing proceedings in El Paso relied on sentencing guidelines developed by Judge Sam Callan. This probably reduced the effect on sentencing of individual differences between judges.

Eleven judges in Tucson sentenced at least 25 of the cases included in the sample. Six of them gave more severe sentences to whites on the average, four gave more severe sentences to Hispanics, and one gave more severe sentences to blacks. Again, there is little evidence of a consistent pattern of discrimination against Hispanics.

An important further consideration is the possibility that the identity of the judge might have an effect on sentencing outcomes once the characteristics of the defendant and the case are controlled. To test this possibility, I next reestimated the sentence severity model described above, but added dummy variables for each of the two judges in El Paso and the eleven judges in Tucson who had presided over the sentencing of at least 25 defendants. Consistent with the bivariate results, none of the individual judge variables were statistically

significant in either jurisdiction (results not presented in tabular form).

These data were not well-suited to an examination of the effects of the race composition of the victim-offender dyad on processing decisions. First, only the robbery cases included a victim. Second, the data included limited information on victim's characteristics. And finally, because both jurisdictions included three major racial-ethnic groups (i.e., Hispanics, blacks, and whites), the possible permutations between groups further reduced the number of cases available for comparisons of different victim-defendant racial combinations. With these caveats, Table 13 shows mean sentences by race of victim and offender for Tucson and El Paso cases. Blacks are excluded here because there were too few black defendants and crime victims to allow meaningful comparisons.

(See Table 13, Appendix I)

To the extent that the criminal justice system in the United States favors more powerful groups over less powerful groups, we might expect sentence severity to depend on the racial composition of the victim-defendant dyad. If the legal system discriminates against Hispanics, then (1) crimes by Hispanics against whites should result in the most severe sentences, followed by (2) crimes by whites against whites, (3) Hispanics against Hispanics, and, finally, (4) whites against Hispanics. Table 13 does not support this interpretation.

For Tucson, mean sentence severity was similar regardless of race

composition. The highest mean sentence (6.53 years for Hispanic intraracial offenses) was close to the lowest (5.54 years for Hispanic offender-white victim offenses). Contrary to the expectation of discrimination against Hispanics, the most severe sentences were assigned to Hispanic intraracial offenders and the least serious sanctions were assigned to Hispanic offenders convicted of robbing white victims.

The range of mean sentences was greater in El Paso--perhaps a function in part of the small number of cases. But again, the results do not consistently suggest discrimination against Hispanics. The most serious sentences were assigned to white intraracial offenses. As in Tucson, the least serious sentences were assigned to Hispanic offenders against white victims. Although a definitive statement about the effect of race composition on processing outcomes in criminal cases must await a larger sample, these data provide no evidence that Hispanics were valued less than whites by the legal system in sentencing.

#### CONCLUSIONS

A major conclusion from this research is that evidence of race discrimination by the legal system depends on the specific decision and jurisdiction being examined. In general, there was little evidence of discrimination by legal agents against Hispanics in Tucson. In fact, Hispanics in Tucson received more favorable pretrial release outcomes than whites and spent less time in detention awaiting the adjudication of their cases. Being Hispanic had no effect on outcomes for adjudication type, verdict, or sentence severity. Moreover, there was no evidence in Tucson that individual judges were consistently harsher on

Hispanic defendants and there was no evidence of harsher reactions to cases involving Hispanic offenders accused of perpetrating crimes on white victims.

By contrast, in El Paso, I did find evidence of discrimination against Hispanics. Hispanic defendants received less favorable pre-trial release outcomes than white defendants, were more likely to be convicted in jury trials, and received more severe sentences when they were found guilty by trial. Being Hispanic also had an indirect effect on adjudication type and sentence severity through its effect on pretrial release status. El Paso defendants with less favorable pretrial release outcomes were more likely to go to trial and received more severe sentences when they did. El Paso defendants who were imprisoned before the adjudication of their cases, were detained an average of 56 days longer than white defendants, controlling for case seriousness, evidence, prior criminal record and other characteristics of the defendant. At the same time, there was no evidence of discrimination against Hispanics for several other processing decisions in El Paso. Hispanics were no more likely than whites to be tried (instead of being adjudicated by guilty plea), there was no consistent evidence that individual judges were harsher toward Hispanics than whites, and there was no evidence that Hispanics charged with victimizing whites were treated more harshly in El Paso. Finally, a prior criminal record resulted in more serious sentences for nonHispanics than Hispanics.

My conclusions about discrimination by the legal system against Hispanics must of course be tempered by noting that these data were

limited in several respects. First, although the data allowed an analysis of several major processing decisions, other outcomes, most notably those occurring before cases were filed as felonies, and those occurring after a defendant was sentenced, were unavailable. Thus, the analysis does not include data on the police decision to arrest, or once arrested, the probability of having a case forwarded to the prosecutor. It also excludes data on the actual amount of time served by defendants after sentencing.

Second, although I had extensive information on defendants from case records, some important information was missing. For example, I had no data on the economic background of defendants in El Paso and only incomplete economic data on Tucson defendants. This is a variable that should be closely attended to in future research on legal processing of Hispanics. Differential economic status might help explain why compared to whites, Hispanics in El Paso were less likely to "make bail" and ended up spending more time in jail awaiting the adjudication of their cases.

Third, also missing from these data was a precise measure of Hispanic origin. My measure of Hispanic ethnicity combined all those persons who were identified by officials as Hispanic when their cases were filed as felonies. This includes persons of Spanish ancestry, Mexican-Americans, Mexican nationals and various combinations of these backgrounds. I had no means of assessing the accuracy of the official racial designation, nor of breaking down the racial category by type of Hispanic background. Clearly, being a Mexican national has different implications in the Southwest than being from a Spanish-heritage

family with a long-term history in the region. This difference may explain in part the greater likelihood of Hispanics than nonHispanics to be found guilty in El Paso jury trials. Future research should attend more closely to these ethnic distinctions.

Fourth, the two cities included in the sample may not be typical of cities with Hispanic populations in the rest of the country. Indeed, the rather striking differences between the cities in terms of determinants of processing outcomes, strongly supports the need for future research in a wider variety of jurisdictions. The fact that El Paso is a "border" town also makes it unique. One El Paso assistant district attorney explained:

We're sitting here on a border. Across the river from us, which is nothing more than an oversized mud puddle, is the city of Juarez, with over a million and a quarter residents. They come over to this side, they burglarize, they rape, they kill. Well, our police force is geared to the size of this city and what it can afford. El Paso does not have a large economic base to support the city itself. In other words, we perceive El Paso as the city north of the Rio Grande, but bullshit, we're talking about another million and a quarter people that go back and forth like a tide.

Finally, a more general problem with studies of differential treatment of defendants by legal systems, is that the choice of research sites is often dictated more by practical than theoretical concerns. For example, my original research plan was to include San Antonio, Texas in this study. But officials in San Antonio refused to cooper-

ate. Thus, there is the distinct possibility that the two jurisdictions studied here, which offered me their complete cooperation, had less to be concerned about with regard to the treatment of minorities than other jurisdictions. For Texas, at least, the idea was frequently expressed by the officials I interviewed that Hispanics were treated better in El Paso than in other Texas cities. Several officials in Texas voiced the opinion that the treatment of Hispanics improves "as you move south." An El Paso judge told us:

I find for various reasons that you can go from the border to Dallas and with exceptions such as the hill country, you'll see sentencing get a little bit tougher as you go north.

In other words, Hispanics may fare better in a city like El Paso, than in more northerly Texas cities like Dallas. Certainly, the fact that El Paso is 60 percent Hispanic makes it an unusual Texas city.

Because of the limitations of these data, specific policy recommendations are premature. However, the results suggest a more critical look at several aspects of criminal processing in El Paso and Tucson. First, the results show that El Paso Hispanics received less favorable pretrial release decisions than whites. Greater efforts need to be made to determine why this is the case. For example, is the difference due mostly to different economic statuses of white and Hispanic defendants? What reforms of pretrial release practices could reduce these ethnic/racial differences?

Second, Hispanics in El Paso were more likely than nonHispanics to be convicted in jury trials. Efforts should be made to determine whether Hispanic citizens are fairly represented on juries. Moreover,



a more detailed examination of differences in attitudes between different categories of Hispanics in El Paso is warranted. If further research confirms these results, perhaps method of jury selection that tap a broader range of the community would be justified.

Third, the method of providing attorneys to indigent defendants in Texas may work to the disadvantage of some individual defendants and perhaps to Hispanics as a group. In contrast to Tucson, where the Public Defenders Office provide a group of defense advocates with extensive criminal trial experience, receiving a court-appointed private attorney in Texas may reflect the "luck of the draw."

Fourth, the results suggest that El Paso Hispanics are being detained longer awaiting the adjudication of their cases than nonHispanics. There may be economic reasons for this (i.e., differential ability to post bonds) that I was unable to measure with these data. Greater efforts to determine the explanation and provide a solution are needed.

Finally, the lack of evidence of discrimination by race in Tucson does not mean that the issue of differential treatment by race is no longer important there. It is possible that differential treatment might be present for processing decisions other than those for which I had data, for crimes other than burglary and robbery, or for other points in time. Given the importance of equal treatment under the law, criminal justice agencies should undertake efforts to periodically monitor their own systems. Recent advances in record-keeping and analysis capabilities in many criminal justice agencies now make this feasible, at least for larger jurisdictions. Statistics on pro-

cessing outcomes by defendants' characteristics should be routinely generated and analyzed by all criminal justice processing agencies.

Much of the recent literature on the legal treatment of Hispanics, written by journalists, lawyers and political activists, has assumed differential treatment of Hispanics without collecting and analyzing empirical evidence. Although this approach was useful (probably necessary) for drawing attention to the problems faced by Hispanics in the criminal justice system, it offers few specific remedies for effective social policy. Paradoxically, by blaming everyone, we hold no one responsible. For example, when seeking funding for this project, several representatives of funding agencies in effect told me, "If your study is simply going to tell us that there is discrimination against Hispanics by the legal system, don't bother--we already know that." But as the results of this research suggest, not all parts of the two legal systems studied here were equally likely to treat Hispanics and nonHispanics differently. Armed with specific information about where, how, why, and because of whom discrimination occurs, we can propose specific reforms. Without such information, it is difficult to defend reform efforts.

A variation of the assumption that discrimination is everywhere in the legal system, and hence, does not warrant study, is the assumption that all of us, or simply "society" is to blame for discrimination in the treatment of minorities by the legal system. This reasoning is obvious in the 1970 Commission on Civil Rights report on justice in the Southwest which concludes (pg. 87): "This report is not intended to burden the agencies of justice with responsibilities which lie with

society as a whole." Such reasoning suggests that "society" rather than individual agencies and the people that staff them is responsible for discrimination. The problem with this explanation is that people are not processed by an abstract "society", but by real-life criminal justice representatives in local communities. Thus, the assumption that society is somehow responsible can be used as an excuse for inaction. Assuring fair legal treatment by race, ethnicity and other personal characteristics of defendants is central to our system of justice. It obviously requires constant vigilance.

Notes

1. I use the term "race" throughout to refer to socially significant distinctions based on physical appearances. Hispanics are not categorized as nonWhite by the U.S. Census or by the Uniform Crime Reports. However, Blauner, (1972) argues persuasively that discrimination directed at Hispanics is due in part to their visibility, a function of physical appearance.

2. The term "Hispanic" applies to a large and diverse group. The 1970 U.S. Census permitted people to classify themselves in one of five "Spanish heritage" categories: Mexican, Puerto Rican, Cuban, Central and South American and Hispano. The complexity of the issues surrounding attempts to separate Spanish-heritage persons into identifiable ethnic groups should not be minimized (see Jaffe et al., 1980:9-20). But at the same time, recent claims by criminologists, jurists and political activists underscore the importance of the Hispanic distinction as an analytic category. This research focuses on Hispanics in the American Southwest. The majority of persons of Spanish heritage in this region identify themselves as Mexican-American (or Chicano), or Hispano.

3. Outside of an appendix on the percentage of grand jurors with Spanish surnames in selected California counties, the Report includes only six data tables: two show the distribution of Spanish surname citizens in five southwestern states; one compares the median levels of education for Spanish surname and other persons; and three compare

ethnicity of police and state court employees, district attorneys, public prosecutors and law clerks.

4. Hispanics were defined by the NCS surveys as persons who identify themselves to survey interviewers as being from Mexican-American, Chicano, Mexican, Mexicano, Puerto Rican, Cuban, Central or South American, or other Spanish cultural origins. According to the 1981 report (p. iii) race of the victim could not be examined directly because 19 of every 20 Hispanics interviewed classified themselves racially as "white."

5. I refer to the jurisdictions as "Tucson" and "El Paso" throughout. However, it should be clear, that these jurisdictions include the entire county in which each city is located.

6. Robbery and burglary are general terms representing behaviors defined somewhat differently in the two states. Regardless of definition, only felonies are included here. In both Tucson and El Paso, robbery refers to the illegal taking of property from the person of another by using force or threat of force. Arizona distinguishes "simple robbery" from "armed robbery", "attempted robbery", and "kidnapping for robbery". Texas distinguishes "simple robbery" from "aggravated robbery" (if defendant "causes serious bodily injury to another; or uses or exhibits a deadly weapon"). Burglaries refer to breaking and entering the house of another person with the intention of committing theft. Arizona distinguishes "burglary committed in the nighttime" (first degree felony) from "burglary committed in the daytime" (second degree felony), and simple burglary from "burglary while armed with a deadly weapon." In Texas, burglary is considered to be

"aggravated" if it involves a habitation, an armed offender, or injury to the victim. In Arizona, "grand theft" cases, defined as "theft of money, labor or property of the value of more than one hundred dollars" are included. In Texas, "burglary of vehicles" is included, defined as "breaking into or entering a vehicle or any part of a vehicle with intent to commit any felony or theft."

7. The original Georgetown study also collected case processing information on four other jurisdictions: New Orleans, Seattle, Norfolk, and Delaware County, Pennsylvania. Hispanics comprised less than one percent of the total defendants in each of these other jurisdictions. The Tucson and El Paso data included ten Native American defendants. Because this number was insufficient to allow meaningful comparisons, these cases were excluded from the analysis.

8. The legal system of the third southwestern city in this group, Albuquerque, is currently being examined in a related project (see Tyler, 1983).

9. Criminal codes for each state were used to determine legally what constituted a weapon.

10. For offenders who received indeterminate sentences, I assigned the mean of the maximum and minimum sentence received before converting the sentence to the severity measure. I experimented with other measures of sentence severity before choosing this one. The most common alternative to the type of measure used here is simply final sentence if convicted (e.g., Eisenstein and Jacob, 1977; Nardulli, 1978; LaFree, 1980). The major disadvantage of using length of final sen-

tence as a measure of sentence severity is that it disregards defendants who receive only probation, or prison, or jail and probation.

11. The interpretation of the standardized discriminant function coefficients is analogous to the interpretation of "beta weights" in multiple regression.

12. Rao's V evaluates each variable in terms of whether it increases discriminatory power. A variable which contains a large amount of information already included in previously selected variables may reduce discriminatory power by bringing the groups closer together. The change in V has a chi-square distribution with one degree of freedom.

13. However, a separate analysis which included bench trials showed similar results with regard to the effect of defendants' race on verdicts.

14. Rao's V estimates are done in a stepwise fashion so that the best single variable in terms of discriminating between two or more groups is selected first, the best two-variable combination is selected next, and so on. An analysis using Rao's V showed that being Hispanic was the single best determinant of a guilty verdict in El Paso.

Appendix I: Tables



Table 1. Percentages of Hispanic, Black and White Defendants in El Paso and Tucson for Six Processing Outcomes

	Filed as Felonies	Guilty Pleas	Guilty Verdicts <sup>a</sup>	Total Convictions	Prison Sentences	Five-Plus Sentences
<u>El Paso</u>						
Hispanics	62.9	63.1	70.4	64.6	61.0	57.1
Blacks	8.2	6.1	13.6	7.6	14.0	7.1
Whites	28.9	30.7	15.9	27.8	25.0	35.7
N	232	179	44	223	100	89
<u>Tucson</u>						
Hispanics	26.2	27.9	14.3	26.8	26.7	22.2
Blacks	18.4	16.6	28.6	17.6	20.4	22.2
Whites	55.4	55.4	57.1	55.6	52.9	55.6
N	523	458	42	500	329	81
<u>Sample Total</u>						
Hispanics	37.5	38.0	43.0	38.4	34.7	34.1
Blacks	15.2	13.7	20.9	14.5	18.9	17.1
Whites	47.3	48.5	36.0	47.0	46.4	48.8
N	755	637	86	723	429	123

<sup>a</sup>Includes both bench and jury trials.

Table 2 Median Number of Charges by Race for Robbery and Burglary Defendants in El Paso and Tucson.

	Arraignment	Conviction
<u>El Paso</u>		
Hispanics	1.02	1.03
Blacks	1.13	1.11
Whites	1.11	1.11
N	232	223
<u>Tucson</u>		
Hispanics	2.08	1.13
Blacks	2.05	1.12
Whites	2.07	1.15
N	523	500

Table 3. Median Statutory Seriousness by Race for El Paso and Tucson.

	Most Serious Arraignment Charge (in years)	Most Serious Conviction Charge (in years)	Charge Reduction (Arraignment-Con.)
<u>El Paso</u> (N = 232)			
Hispanics	20.99	20.95	.04
Blacks	20.68	20.28	.40
Whites	21.10	20.81	.29
<u>Tucson</u> (N = 523)			
Hispanics	7.95	2.62	5.33
Blacks	8.17	5.43	2.74
Whites	8.05	4.09	3.96

Table 4. Variables, Coding and Frequencies.

Variable	Coding	Distribution <sup>a</sup>	
		N	%
Race/Ethnicity <sup>b</sup>	Hispanic	283	37.5
	Black	115	15.2
	White	357	47.3
Defendant age	Interval Scale (18-65)	Mean = 26.16	
Weighted index of prior convictions <sup>c</sup>	0-40	Mean = 4.50	
Record of drug abuse	0 No	572	75.9
	1 Yes	182	24.1
Record of alcohol abuse	0 No	663	87.8
	1 Yes	92	12.2
Probation, parole or pretrial release at time of offense	0 No	555	73.5
	1 Yes	200	26.5
Statutory Seriousness (in years)	Interval (0-40)	Mean = 13.59	
Number of counts	Log transformation (0-3.55)	Mean = 1.03	
Type of crime	0 Burglary	288	38.2
	1 Robbery	466	61.8
Weapon	0 Not mentioned	539	71.4
	1 Mentioned	216	28.6
Employment status (Tucson only)	0 Unemployed or other	355	74.7
	1 Employed	120	25.3
Pretrial release status	0 Released on own recognizance or conditional release	230	31.9
	1 Cash bond and released	128	17.8
	2 Bail denied, or cash bond but not released	363	50.3
Adjudication type	0 Guilty plea	637	84.4
	1 Trial	118	15.6
Verdict (jury or judge trials)	0 Not Guilty	32	27.1
	1 Guilty	86	72.9

continued....

Table 4. (continued)

Variable	Coding	Distribution	
		N	%
Sentence severity	0 Suspended Sentence	51	6.8
	1 Probation 1-12 months	44	5.9
	2 Probation 13-24 months	42	5.6
	3 Probation 25-36 months	102	13.6
	4 Incarcerated in jail or prison 1-6 months <u>or</u> probation 37 months or more	115	15.3
	5 Incarcerated in jail or prison 1-6 months <u>and</u> probation for unspecified period	159	21.2
	6 Incarcerated in jail or prison 7-12 months	9	1.2
	7 Incarcerated in jail or prison 7-12 months <u>and</u> probation for unspecified period	1	0.1
	8 Incarcerated in jail or prison 13-24 months	26	3.5
	9 Incarcerated in jail or prison 13-24 months <u>and</u> probation for unspecified period	1	0.1
	10 Incarcerated in jail or prison 25-36 months	45	6.0
	11 Incarcerated in jail or prison 37-48 months	26	3.5
	12 Incarcerated in jail or prison 49-60 months	15	2.0
	14 Incarcerated in jail or prison 61-84 months	37	4.9
	17 Incarcerated in jail or prison 85-120 months	39	5.2
	21 Incarcerated in jail or prison 121-168 months	19	2.5
	30 Incarcerated in jail or prison 169 months or more	19	2.5
	Mean = 6.71		

<sup>a</sup> Variation in total number of cases is due to missing data.

<sup>b</sup> Dummy-coded as two vectors with "white" being the excluded category.

<sup>c</sup> Prior felony convictions were assigned three points, misdemeanor convictions two points, after Bernstein, Kelly and Doyle (1977).

Table 5. Regression of Pre-Trial Release Status on Independent Variables for Tucson and El Paso Defendants

	Tucson (N=497)				El Paso (N=224)			
	r	b	B	S	r	b	B	S
Hispanic	-.09	-.18	-.08	.074	.13	.26	.23	.002
Black	.03	-.09	-.04	NS	.09	.26	.14	.056
Age	.11	.01	.10	.037	.22	.01	.12	NS
Prior Convictions	.13	.01	.08	.096	.22	.01	.11	NS
Drug Abuse	.11	.13	.06	NS	.00	-.05	-.05	NS
Alcohol Abuse	-.03	-.24	-.08	.092	-.04	-.09	-.07	NS
Probation, Par., Pretrial release	.17	.34	.17	.000	.20	.30	.17	.013
Statutory Seriousness	.25	.02	.23	.001	.15	.01	.10	NS
Number of Counts	.15	.12	.06	NS	.09	.21	.08	NS
Type of Crime	.12	.08	.04	NS	.11	.05	.05	NS
Weapon	.23	.08	.04	NS	.10	.11	.10	NS
Employment Status	-.17	-.37	-.17	.000	Data unavailable			
Intercept		.125			.745			
R <sup>2</sup>		.173			.167			

Table 6. Discriminant Function Coefficients, Group Centroids, and Canonical Correlations for Tucson and El Paso Defendants Who Were Tried or Pled Guilty

Variable	Tucson Function (N=444)	El Paso Function (N=209)
Hispanic	-.231	.222
Black	.513*	.423*
Age	.030	.033
Prior Convictions	.398*	.354*
Drug Abuse	-.043	.373*
Alcohol Abuse	.384*	.140
Probation, Parole, Pretrial Release	-.142	.036
Statutory Seriousness	-.213	.257
Number of Counts	-.375*	-.342*
Type of Crime	.224	.207
Weapon	.456*	.279*
Employment Status	-.045	Not available
Pretrial release	.024	.372*
Group centroids:		
Guilty Pleas	-.087	-.231
Trials	.591	.776
Canonical correlation	.222	.392

\*Rao's V  $\leq$  .10.

NOTE: Variation in number of cases due to missing data.

Table 7. Discriminant Function Coefficients, Group Centroids and Canonical Correlations for Verdicts of Tucson and El Paso Defendants Who Where Tried by Jury

Variable	Tucson Function (N=45)	El Paso Function (N=40)
Hispanic	-.260	.353*
Black	-.033	-.044
Age	-.461	.430
Prior Convictions	.294	-.234
Drug Abuse	-.390	-.010
Alcohol Abuse	.544*	.187
Probation, Parole, Pretrial Release	-.469	.676
Statutory Seriousness	-.386	-.567*
Number of Counts	.455	.236
Type of Crime	.514	-.589
Weapon	.159	-.093
Employment Status	-.263*	Not available
Pretrial Release	.896*	-.436
Group Centroids:		
Not Guilty	-1.187	-1.430
Guilty	.432	.358
Canonical Correlation	.591	.592

\*Rao's V  $\leq .10$ .

NOTE: Variation in number of cases due to missing data.



Table 8. Sentence Type for Hispanic, White and Black Defendants in Tucson and El Paso

	<u>Probation</u>		<u>Prison or Jail</u>		<u>Split Sentences<sup>b</sup></u>		<u>Total</u>	<u>Prison</u>	<u>Sentences</u>	
	N	%	N	%	N	%	N		%	N <sup>a</sup>
<u>Tucson</u>										
Hispanics	45	33.8	42	31.6	46	34.6	88		66.2	133
White	96	35.5	88	32.6	86	31.8	174		64.4	270
Blacks	19	22.1	30	34.9	37	43.0	67		77.9	86
<u>El Paso</u>										
Hispanics	83	57.6	59	41.0	2	1.4	61		42.4	144
White	37	59.7	24	38.7	1	1.6	25		40.3	62
Blacks	4	22.2	14	77.8	0	0	14		77.8	18

<sup>a</sup>Variation in total cases due to missing data.

<sup>b</sup>Sentences including prison or jail and probation.

Table 9. Regression of Sentence Severity on Independent Variable for Convicted Tucson Defendants (N=496)

	Sentence Severity Tucson			
	r	b	B	S
Hispanic	.00	.69	.05	NS
Black	.03	.07	.00	NS
Age	.11	.06	.07	NS
Prior Convictions	.19	.13	.15	.001
Drug Abuse	.22	2.35	.15	.000
Alcohol Abuse	-.08	-2.38	-.11	.010
Probation, Par., Pretrial release	.18	1.77	.13	.003
Satutory Seriousness	.39	.29	.38	.000
Number of Counts	.26	1.81	.12	.004
Type of Crime	.21	.75	.06	NS
Weapon	.32	-.30	-.02	NS
Employment Status	-.01	.51	.03	NS
Pre-Trial Release	.31	.92	.13	.002
Adjudication Type	.08	1.18	.05	NS
Type of Trial	.06	1.69	.03	NS
Intercept		-3.664		
R <sup>2</sup>		.338		

NOTE: Variation in number of cases due to missing data.

Table 10. Regression of Sentence Severity on Independent Variable  
for Convicted El Paso Defendants ( $p \leq .10$ )

Variables	Sentence Severity (N=223)			
	r	b	SE	B
Hispanic	(-.07	-.30	.716	-.02)
Prior Convictions	.47	.94	.153	.92
Statutory Seriousness	.21	.09	.045	.10
Number of Counts	.27	4.17	1.394	.16
Weapon	.30	2.90	.698	.23
Pretrial Release Status	.34	2.01	.561	.19
Adjudication Type	(.27	-1.96	1.393	-.14)
Type of Trial	.02	-3.58	1.673	-.12
<u>Product Terms (Independent Variables by Defendant Race-Hispanic)</u>				
Prior Convictions	.36	-.59	.164	-.56
Adjudication Type	.26	5.79	1.658	.36
Intercept		-2.63		
R <sup>2</sup> with product terms/ without product terms		.490/.442		
R <sup>2</sup> increment for product terms		.048( $p \leq .05$ )		

NOTE: Parentheses indicate the effect is statistically insignificant.  
Attrition in sample size due to missing data.

Table 11. Regression of Disposition Time (in days) on Independent Variables  
for Tucson and El Paso Defendants Who Were Detained

	Tucson (N=169)				El Paso (N=123)			
	r	b	B	S	r	b	B	S
Hispanic	-.20	-24.64	-.14	.084	.15	56.23	.25	.018
Black	.03	6.87	.03	NS	-.04	23.75	.07	NS
Age	.03	-.47	-.05	NS	.16	.02	.00	NS
Prior Convictions	-.07	-.50	-.05	NS	.26	2.08	.13	NS
Drug Abuse	-.07	-13.61	-.08	NS	.34	71.34	.31	.001
Alcohol Abuse	.02	12.40	.05	NS	.24	51.90	.18	.047
Probation, Par., Pretrial Release	-.15	-21.44	-.14	.09	.11	.93	.00	NS
Statutory Seriousness	.18	-.22	-.03	NS	.12	2.90	.17	.057
Number of Counts	.17	28.90	.20	.019	-.03	-24.60	-.06	NS
Type of Crime	.13	15.90	.10	NS	.04	2.40	.01	NS
Weapon	.18	17.86	.12	NS	.03	23.34	.10	NS
Employment Status	.22	41.21	.21	.010	--	--	--	--
Intercept		98.012				16.93		
R <sup>2</sup>		.171				.245		

Table 12. Mean Sentence Severity by Race for Tucson and El Paso Judges

Judge	Defendant Race/Ethnicity					
	Hispanic		Black		White	
	$\bar{X}$	N	$\bar{X}$	N	$\bar{X}$	N
<u>El Paso</u>						
A	5.51	59	<u>9.83</u>	6	7.26	35
B	7.40	53	<u>8.86</u>	7	7.88	17
Other	9.80	15	<u>15.33</u>	3	3.33	3
<u>Tucson</u>						
A	<u>6.83</u>	6	6.20	5	5.63	19
B	6.77	13	5.00	8	<u>9.90</u>	21
C	6.00	5	—	— <sup>a</sup>	<u>6.71</u>	21
D	<u>7.33</u>	15	6.92	13	6.84	37
E	5.80	5	7.75	8	<u>8.21</u>	19
F	5.57	7	—	— <sup>a</sup>	<u>6.00</u>	21
G	7.40	5	4.85	13	<u>8.44</u>	18
H	<u>8.00</u>	5	7.60	5	5.47	15
I	6.07	15	5.17	6	<u>7.97</u>	30
J	7.86	29	<u>9.69</u>	13	4.77	30
K	<u>11.33</u>	9	7.50	6	3.50	14
Other	3.94	17	<u>10.37</u>	8	5.90	31

<sup>a</sup>Less than five cases.

Table 13. Mean Sentence Severity by Victim-Offender Racial Composition  
for Tucson and El Paso

Victim's Ethnicity	<u>Offender's Ethnicity</u>			
	<u>Hispanic</u>		<u>White</u>	
	<u>X</u>	<u>N</u>	<u>X</u>	<u>N</u>
<u>Tucson</u>				
Hispanic	6.53	19	6.33	3
Anglo	5.54	22	5.71	56
<u>El Paso</u>				
Hispanic	8.29	38	5.0	7
Anglo	3.75	8	10.67	3

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