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# Sociological Criminology and the Mythology of Hispanic Immigration and Crime\*

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*Our sociological knowledge of crime is fragmented and ineffective in challenging and correcting mistaken public perceptions, for example, linking immigration and crime. These misperceptions are perpetuated by government reports of growing numbers of Hispanic immigrants in U.S. prisons. However, Hispanic immigrants are disproportionately young males who regardless of citizenship are at greater risk of criminal involvement. They are also more vulnerable to restrictive treatment in the criminal justice system, especially at the pre-trial stage. When these differences are integrated into calculations using equations that begin with observed numbers of immigrants and citizens in state prisons, it is estimated that the involvement of Hispanic immigrants in crime is less than that of citizens. These results cast doubt on the hypothesis that immigration causes crime and make more transparent the immigration and criminal justice policies that inflate the rate of Hispanic incarceration. This transparency helps to resolve a paradox in the picture of Mexican immigration to the United States, since by most measures of well-being, Mexican immigrants are found to do as well and sometimes better than citizens.*

"Criminology," Sutherland and Cressey (1978:3) write in the opening paragraph of their classic text, ". . . includes within its scope the processes of making laws, of breaking laws, and of reacting toward the breaking of laws." For Sutherland and Cressey, these processes are "three aspects of a somewhat unified sequence of interactions" and "this sequence of interactions is the subject matter of criminology." This formulation has proven partly prophetic in that sociological criminology continues to be subdivided into studies of law making and breaking and reacting to law breakers, but the *unification* that Sutherland and Cressey sought in these sequentially related subfields is not reflected in the integration of criminological research. For example, there is no systematic connection between studies of the causes of criminal *behavior* and the *punishment* of this behavior. A result is that our knowledge of crime is fragmented and ineffective in challenging and correcting mistaken beliefs. It is still the case, as Sutherland and Cressey (4) lamented, that "The average citizen is confronted by a confusing and conflicting complex of popular beliefs and programs with regard to crime."

Sutherland highlighted immigration and crime as an area of popular misperception and policy distortion in early versions of his text (1924, 1934), and these problems persist. For example, it currently is the case that immigration and criminal justice policies which appear neutral in relation to Hispanic immigrants actually bias and distort public perceptions of immigration and crime by inflating Hispanic rates of imprisonment. The challenge is to make these unrecognized and therefore unforeseen consequences of policies and practices visible to the public and to policymakers alike. We can advance this goal by heeding Sutherland and Cressey's advice to combine our consideration of the causes of criminal behavior *and* its punishment—

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punishment which in this case results in high levels of Hispanic imprisonment. In doing so we can explain prison statistics that link immigration and crime, and thereby demonstrate the relevance and potential of a more coherent and better integrated sociological criminology.

### **Immigration and Crime Through Time**

Sutherland was critical of both data and writings that, early in this century, purported to show higher rates of crime among foreign-born immigrants than among the native-born (see Immigration Commission 1911; Industrial Commission 1901). Sutherland argued that acculturation into American society rather than immigration was causally associated with crime. In support of this position he reported evidence that second-generation immigrants had higher rates of crime than first-generation immigrants, that immigrants who came to America as children were imprisoned at higher rates than immigrants who came as adults, and that immigrants to America had higher rates of serious crime than their counterparts in their native countries (see also National Commission on Law Observance and Enforcement 1931). In each of these instances, Sutherland's argument was that rather than immigration causing increases in American crime, exposure to the forces of acculturation more slowly caused immigrants, and more notably their children, to become more like native-born citizens in their criminal involvements. He further worried that official crime statistics that were unadjusted for age and sex, and also prone to police and court error and bias, were dubious resources for reaching conclusions about immigration and crime.

Nonetheless, public beliefs causally connecting immigration with crime were widespread and they coincided with historically high rates of immigration through the first decades of this century. These concerns about crime ultimately helped to justify restrictive immigration policies. Public perceptions of immigrant alcohol use and public drunkenness in association with fears of crime facilitated the passage of Prohibition, and Congressional acts in 1921 and 1924 substantially reduced the numbers of immigrants admitted to the United States. Concerns about immigration focused on Southern and Eastern Europeans during this period, although statistical analyses more generally compared native-born whites with foreign-born Americans.

Over time, American criminologists adopted a somewhat more sophisticated, reformulated version of what Michael Tonry (1997:20) has called the "not the foreign born but their children" view of immigration and crime. This reformulation was built on early American research which concluded that while immigrant parents were hard-working and conformist in their dedication to the achievement of longer-term rewards, their children were "caught between two worlds" and more likely to turn to crime in response to their unrealized and perhaps unrealizable goals for rapid advancement. This reformulated, multigenerational model was an improvement over the earlier "immigration causes crime" hypothesis, but Tonry's review of more recent research demonstrates that this model is also simplistic and only partly true, even for the self-selected U.S. economic migrants whose experience it accurately describes. For example, Tonry convincingly argues that differences in immigrant cultural backgrounds and reasons for migration, as well as structural circumstances that contextualize migration and settlement experiences, powerfully condition relationships between immigration and crime. A result is that many but not all disadvantaged minority youth, including some but not all children of disadvantaged immigrants, disproportionately fall into the clutches of the criminal justice system.

Still, recurring political pressures threaten to bring the simpler, more sweeping stereotype that immigration causes crime back into prominence. During the 1996 U.S. Presidential election, a *Wall Street Journal* story (Seib 1996) led with the headline, "Backlash Over Immigration Has Entered Mainstream This Year," and noted that the public now felt immigration was tied to "a fraying of the social order" involving problems of crime and drugs. A survey of such stories in major newspapers across the United States led Tanton and Lutton (1993) to conclude

that “under current immigration laws and procedures, frighteningly large numbers of newcomers see crime as their avenue to the American Dream” (see also O’Kane 1992). It is unclear how this analysis identified what the “newcomers saw,” but further evidence of what the public believes about immigrants and crime appeared in a report for the U.S. Commission on Immigration Reform. In this report, Bean et al. (1994:3) confirmed that: “. . . many people believe that undocumented aliens are the source of the increase in serious crime . . . and that the increasing number of undocumented aliens is due to the U.S. Government’s inability to control the border.” Citing the rising costs of crime, drugs and other problems allegedly associated with an explosion in the number of these new immigrants, Patrick Buchanan promised as part of his 1996 Presidential campaign that “I will stop illegal immigration cold by putting a double-linked security fence along the 200 miles of the border where millions pour in every year” (cited in Dillon 1997).

In 1996 Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act and increased the budget of the Immigration and Naturalization Service (INS). Much of the latter funding was dedicated to enforcement, giving the INS a bigger budget than the Federal Bureau of Investigation and a larger work force than the Departments of State or Labor. Since then, political rhetoric surrounding immigration has softened, but the harshness and size of the law enforcement apparatus remains, as do the underlying perceptions and stereotypes on which U.S. immigration policy often is based (Ojito 1998).

This paper argues that mistaken perceptions linking Mexican immigration and criminal behavior are perpetuated by government reports of growing numbers of Hispanic immigrants in U.S. prisons (Scalia 1996; Wunder 1995). Reports of Hispanic imprisonment obscure policies and practices that inflate Hispanic incarceration. That is, high Hispanic incarceration rates are the product of specific immigration and criminal justice policies and practices. Sociological criminology, Sutherland would argue, has an obligation to show how this is so, that is, to demonstrate how the “sequence of interactions” resulting from immigration and criminal justice policies and practices yield Hispanic incarceration rates that misinform our understanding of immigration and crime. We first will show how these unadjusted rates misinform our impressions of immigration and crime; then we will show how these rates can be recomputed to correct misconceptions and make the results of the policy making process more visible.

The first step in making incarceration rates for immigrants more meaningful involves adjusting for age. The desirability of adjusting for age may seem obvious, but the necessity of doing so is slightly more obscure. American immigration law and its implementation is at least in part a reflection of the demand for low wage, unskilled labor (Calavita 1994). This labor is disproportionately done by young men, and young men are also more prone to involvement in crime. Immigration policy that allows relatively free movement of young Hispanic men into the United States is therefore not neutral with regard to crime, and the extent to which the demand for inexpensive young male labor structures the pool of immigrants can be made apparent in incarceration rates by adjusting for sex and age.

The second step in making incarceration rates for immigrants more meaningful involves adjusting for pretrial detention policy and practices which are also less neutral than they might seem. The problem is that pretrial detention decisions operate to the systematic disadvantage of members of immigrant groups. “This is a perplexing problem,” Tonry (1997:16) observes, “because practices that are justifiable in their own terms, such as detaining those people who seem least likely to remain in the jurisdiction and appear for trial, produce outcomes, greater proportions of minority offenders in confinement, that are widely seen as regrettable.” Being detained before trial increases the probability that a prison sentence will be imposed after trial (Hood 1992; Petersilia and Turner 1986). So pretrial detention is a second source of bias that should be considered in the adjustment of incarceration rates.

Tonry (1995) notes that to *consciously* incarcerate minority and immigrant offenders disproportionately for reasons such as being young and male, or having been detained before trial, would be seen as wrong in all Western countries. “To maintain policies which foresee-

ably have that effect," Tonry (1997:17) further explains, "is not exactly the same thing but deserves more hard ethical scrutiny than typically it receives." Making the effects of immigration and criminal justice policies and practices on incarceration rates visible is an important means of advancing this goal of ethical scrutiny.

### **Immigration and Imprisonment in America**

On its face, there might seem good reason to link issues of immigration and crime in late twentieth-century America. Between 1960 and 1990 annual immigration to the U.S. and the U.S. homicide rate both nearly doubled (from 1.7 to 3.0 per thousand and from 4.8 to 8.3 per hundred thousand population respectively). Rates of imprisonment also sky-rocketed during this period, with federal prison populations more than doubling between 1980 and 1990, largely due to increased drug arrests. Although extended time series are not available, it is clear that the number of immigrants in U.S. federal, state and local prisons also increased during this period (Scalia 1996). However, these parallel trends are easily misinterpreted.

First, the upturn in homicides and imprisonments beginning in the 1960s had much more to do with the growing numbers of young native, white and black Americans in the crime-prone years of late adolescence and early adulthood, than it did with immigration. Second, the growing proportions of noncitizens in prison populations, especially Hispanic and Mexican immigrants, had much more to do with the increased entrance into the United States of disproportionately young immigrants and their vulnerability to pre-trial detention, conviction, and imprisonment, than with the overrepresentation of crime among immigrants. None of this is apparent from prison statistics alone, which, as we explain below, have become the primary lens through which growing concerns about immigration and crime are filtered in the 1990s.

Two pronounced waves of immigration in the beginning and closing years of this century elevated the American public's concerns about immigration and crime. In between, from the mid-1930s to the mid-1960s, concern about immigration and crime declined and nearly disappeared. A reflection of this is that Sutherland and Cressey eliminated completely the lengthy discussion of immigration and crime that had been an important part of earlier editions of their classic text in the eleventh edition. With the exception of occasional panics about Italian American involvement in organized crime (Cressey 1969), fears about immigration and crime gradually faded into the background of public and criminological concern. Earlier waves of European immigrants assimilated into American society and became citizens, while immigration and crime both declined through the 1950s, and public fears subsided.

As public pressure and concern diminished, police and court officials began to acknowledge that they could not obtain good information on the immigration status of arrestees, and they stopped collecting and reporting this information. Although today efforts increasingly are made to reinvolve earlier phases and lower levels of the criminal justice system in tracking illegal immigrants, it remains the case that the largest number of immigrants are identified at imprisonment, when greater amounts of time and effort can be invested in their detection (McDonald 1997). Especially since the Violent Crime Control and Law Enforcement Act of 1994 released unprecedented funds to reimburse states and localities for the costs of incarcerating illegal aliens, correctional institutions have developed an acute interest in the identification of noncitizens. In December, 1996, the Federal government released \$495 million, with half this sum going to California and almost \$13 million set aside for Los Angeles County jails alone (Lacey 1996). Correctional systems therefore have developed a strong financial interest in determining inmates' immigration status. Several reports released in the 1990s indicate that the numbers of legal and illegal immigrants incarcerated in U.S. prisons have reached record levels that exceed the representation of immigrants in the U.S. population (McDonald 1997; Scalia 1996; Wunder 1995).

## Problems with Prison Statistics

Prison statistics on immigration and crime cannot be taken at face value. There are a number of problems with prison statistics that should be acknowledged—beyond the already noted (and later to be further developed) point that these statistics represent an end stage in a system that is separated from the commission of crimes by many steps. Putting this point aside for the moment, we first note that there is no single, national enumeration of prisoners in the United States. Our knowledge of incarcerated offenders is based on periodic surveys of prison inmates, such as that conducted at the state level in 1991 (see Bureau of Justice Statistics 1993) and through state and federal departments of corrections in 1995 (see Wunder 1995). The latter survey of correctional agencies reached high levels of coverage on some matters, but encountered bureaucratic problems on others, for example, the California Department of Corrections (the biggest prison system and largest recipient of federal funds in the U.S.) reported national origins of “immigrants” based on data for citizens as well as noncitizens.

Meanwhile, the 1991 state survey reported that more than four percent, or 31,300 state prison inmates, were not U.S. citizens. The 1995 survey of departments of corrections indicated that more than seven percent, or 71,294 state and federal prison inmates were not U.S. citizens. The latter figure is larger in part because it includes federal prisoners, and also because the survey was conducted two years later following a growth spurt in prison populations. However, there are further problems with the size of the latter figure. A recent report on federal prisoners (Scalia 1996) indicates that there were less than 19,000 noncitizens in federal prisons in 1994, more than 7,000 fewer noncitizens than indicated in the *Corrections Compendium* report from one year earlier and introduced above (i.e., see Wunder 1995). The same report indicates in its first table that about 14,000 noncitizens were serving a sentence of imprisonment in a federal prison in 1991, while the last table in this report indicates that 9,916 noncitizens were inmates in federal prisons in 1991. Thus, we are left with a range of estimates that between four and seven percent of prison inmates in the United States are immigrants, compared with estimates that legal immigrants constitute between four and five percent of the U.S. population (Isbister 1996), with perhaps as much as one percent more of the U.S. population being illegal immigrants (Passel and Woodrow 1984). Of course, this tells us nothing about whether specific immigrant groups are over- or under-represented in prisons. The most systematic and comprehensive published data on the national origins of noncitizens in prisons is found in the 1991 Survey of State Prisons: nearly half of the immigrants surveyed in state prisons (47%) were from Mexico; about another quarter (26%) were from Latin and Caribbean countries. Together, these figures indicate that a large majority of inmates are of Hispanic origin. About 45 percent of the legal immigrants in the U.S. are Hispanic in origin (Heer 1996: Table 5.4). Of course, Hispanics are a heterogeneous group, coming not only from Mexico, but also from Cuba, the Dominican Republic, Columbia, El Salvador, Guatemala, and other countries in South America and the Caribbean Islands.

If we calculate rates of imprisonment for various immigrant groups, using estimates of the stock of recent immigrants from the various countries as our base, we find that there is substantial variation in rates of imprisonment among Hispanics. Before presenting these rates it should be emphasized that our calculations are tentative, because in addition to the difficulties in obtaining prison statistics already noted, there is also since 1990 no well developed enumeration of the stock of legal aliens—much less illegal aliens who have an obvious interest in remaining undetected—both of which would ideally be included in the denominators of calculated crime rates. In 1981, Congress eliminated the registry that identified all aliens living in the United States, and in its absence we therefore use census based counts of foreign-born persons who entered the U.S. between 1980 and 1990.

Calculated on the basis of the Survey of State Prisons, the imprisonment rate for U.S. citizens is about 3.5 per thousand population. This rate is used as the base for calculating ratios

**Table 1 • Ratios of Immigrant to Citizen Incarceration Rates in U.S. State Prisons**

<i>Immigrant Group</i>	<i>Observed Ratios</i>	<i>Ratios for Males 15–34</i>	<i>Adjusted Ratios</i>			
			<i>Age (<math>\Psi</math>)</i>	<i>Detention (<math>\pi</math>)</i>	<i>Conviction (<math>\mu_1</math>)</i>	<i>Sentencing (<math>\mu_2</math>)</i>
Mexico	1.983	1.046	1.064	.337	.204	.197
Cuba	4.813	3.029	3.081	.977	.592	.572
El Salvador	1.034	.582	.592	.188	.111	.110
Dominican Republic	4.402	2.780	2.218	.703	.426	.412
Jamaica	2.335	1.513	1.554	.493	.298	.289
Columbia	2.479	1.719	1.749	.554	.336	.325
Guatemala	1.175	1.613	1.641	.520	.315	.305

presented in the first column of Table 1 for the most frequently imprisoned immigrant groups in U.S. state prisons. These figures suggest that immigrants from Cuba and the Dominican Republic are incarcerated at rates between four and five times those of citizens, that immigrants from Mexico, Jamaica and Columbia are incarcerated at rates from two to two and a half times those of citizens, and that immigrants from Guatemala and El Salvador are incarcerated at about the same rate as citizens. Recall that the circumstances of immigration from Cuba and the Dominican Republic have been shaped quite uniquely by political forces that have led many individuals with backgrounds in crime to migrate to the United States: for example, when Castro allowed over 100,000 people, including many prison inmates, to leave Cuba in 1980. The point is that in such situations the immigrants are not a cross-section of the sending population, and indeed are highly selected. A result is that there is considerable variability in Hispanic rates of imprisonment, and it is therefore a myth that these rates are uniformly high, or that there is a single or typical relationship between Hispanic immigration and crime. However, this cautious conclusion only suggests some of the most basic problems and possibilities involved in using prison statistics to inform our understanding of immigration and crime.

### Clarifying Prison Statistics

Rates of immigrant imprisonment are further complicated by the fact that immigrants are younger and more often male than are citizens, and by the fact that immigrants are treated more restrictively than citizens by the criminal justice system. We know from studies of criminal behavior that involvement in crime is concentrated most heavily among younger males (Hirschi and Gottfredson 1983). We know further that restrictive decisions at entry points into the criminal justice system, especially at the point of bail decisions about pre-trial detention, have cumulative effects in increasing the likelihood of conviction and imprisonment (Hagan and Bumiller 1983; Hood 1992; Petersilia and Turner 1986). If our knowledge of these factors is used to inform our calculation of imprisonment rates, the meaning of these rates, and their relationship to immigration and criminal justice policies, can be clarified. That is, we must integrate and apply our knowledge of criminal behavior and criminal justice operations to make the calculation of imprisonment rates more meaningful.

Implicitly or explicitly, analysts of prison statistics on immigrants have wanted to estimate the relative probability or propensity of immigrants being involved in criminal behavior compared to citizens. Of course, this relative probability actually is unobserved and is therefore unknown. We already have indicated that the best known factor affecting the propensity to engage in crime is age, while a second factor that obviously further affects imprisonment rates

is the probability of arrest once a crime has taken place, and then the conditional probability of incarceration given arrest. The latter is the product of the probabilities of conviction (given arrest) and of the probability of incarceration (given conviction). The challenge is to estimate the relative probabilities of involvement in criminal behavior of immigrants and citizens by combining the information we have on imprisonment with ancillary information we have on the age distribution of involvement in crime from studies of the causes of criminal behavior, as well as with the information we have from studies of criminal justice decision-making on causes of detention, conviction, and sentencing.

A beginning step in improving the use of the prison statistics on immigration and crime therefore involves adjusting by sex and age the base used in calculating imprisonment rates. To do this we recalculated imprisonment ratios using denominators for the compared rates that estimate the male populations of immigrants between 15 and 34 years of age from the various countries. To further assure representation of age differences we then adjusted these calculated rates for variation within the 15–34 age group. Next we must make some simplifying assumptions.

First, we assume that the age pattern of risks of being involved in crime is the same across the different immigrant and citizen groups (that is, that while there may be large potential differences in level, the shape of the age curve is the same for these different groups) and that the age pattern of the conditional risks of conviction and incarceration is also identical (albeit again different in level). We further make the more problematic assumption that the risk of arrest given an offense is identical across immigrant and citizen groups. This is likely a conservative assumption that will lead to an overestimation of the involvement of immigrants in crime from prison statistics, given notable evidence that the police are more likely to arrest immigrants than citizens for criminal behavior (see Zatz 1985). However, this source of police bias in outcomes is difficult to assess, and we therefore prefer to apply an assumption that understates rather than overstates the impact of police bias.

We begin, then, with the following expressions:

$$\begin{aligned} Z^o &= \sum_x c_{xz} z_x \\ I^o &= \sum_x c_{xi} i_x \end{aligned} \tag{1}$$

where  $Z^o$  and  $I^o$  are the observed incarceration rates (i.e., the measures of risk of incarceration) among citizens and immigrants respectively,  $c_{xz}$  and  $c_{xi}$  are the age distributions within the age groups 15 to 34 among citizens and immigrants respectively, and the quantities  $z_x$  and  $i_x$  represent the age specific incarceration rates (i.e., the age specific measures of risk incarceration) among citizens and immigrants.

Next we model  $z_x$  and  $i_x$  as follows (net of probabilities of arrest):

$$\begin{aligned} z_x &= (Z\lambda_x)\delta_z\upsilon_z \\ i_x &= (I\lambda_x)(\pi\delta_z)(\mu\upsilon_z) \end{aligned} \tag{2}$$

where  $I$  and  $Z$  represent the unobserved levels of rates of criminal behavior among immigrants and citizens respectively,  $\lambda_x$  is the age pattern of crime rates (as noted above, assumed the same among immigrants and citizens),  $\delta_z$  and  $\upsilon_z$  are the conditional rates of being detained pre-trial and of being incarcerated (if detained), and  $\pi$  and  $\mu$  are adjustment constants to transform the age patterns  $\delta_z$  and  $\upsilon_z$  into values appropriate for immigrants. The value of  $\mu$  is the product of two components,  $\mu_1$  and  $\mu_2$ , the levels of conviction rates (given detention) and of incarceration (given conviction). Thus, the observed ratio of the immigrant incarceration rate to the citizen's incarceration rate is can be obtained by replacing (2) into (1) to obtain:

$$I^o / Z^o = \psi(I / Z)\pi\mu \tag{3}$$

where  $\psi$  is a quantity that expresses the ratio of the incarceration rate among immigrants to that of citizens that would be observed if both groups only differed in terms of their age distri-



bution but not in terms of their age specific rates of crime ( $\lambda_x$ ) or the (conditional) pre-trial detention rates ( $\delta_z$ ), or the (conditional) age-specific incarceration rate ( $\iota_z$ ), namely,

$$\psi = (\sum_x c_{xi} \lambda_x \delta_z \iota_z) / (\sum_x c_{xz} \lambda_x \delta_z \iota_z)$$

where, as always, the summation is over pertinent adult ages,  $x$ . Since  $\delta_z$  and  $\iota_z$  are assumed to be age invariant, they cancel out from the equation and we remain with the simpler expression

$$\psi = (\sum_x c_{xi} \lambda_x) / (\sum_x c_{xz} \lambda_x)$$

From (3) we can easily solve for ( $I/Z$ ), the unobserved ratio of the immigrant to citizens' crime rates:

$$I/Z = (\Psi \pi \mu)^{-1} (Z^0 / I^0) \quad (4)$$

Expression (4) suggests a base for estimating the target quantity, the ratio  $I/Z$  of immigrant to citizen rates of criminal *behavior*. Indeed, the expression suggest that we can adjust the ratio of observed *incarceration* ( $Z^0/I^0$ ), using knowledge about the sequence that leads from criminal behavior to imprisonment. The adjustment that reflects this knowledge consists of multiplying the observed ratio of imprisonment rates by the reciprocal of the product of  $\psi$  and ( $\pi\mu$ ).

Estimates of  $\psi$  can be obtained easily from reports of the age distribution of immigrants and citizens.<sup>1</sup> It is somewhat more difficult to obtain estimates of  $\pi$  and  $\mu$ , since this requires us to know the magnitude of the effect of citizenship on conditional risk of detention, measured by  $\pi$ , and on the conditional risk of conviction and eventual incarceration, measured by  $\mu$ .

There are no national data from which estimates of the risks of detention, conviction and incarceration can be obtained. However, very useful research has been done by Pennell, Curtis and Tayman (1989) on these decision points in two important jurisdictions where these decisions are made for substantial numbers of Hispanic immigrants: El Paso and San Diego. This study was undertaken to examine whether rising crime rates in El Paso, Texas and San Diego, California in 1986 could be attributed to, among other factors, the influx of undocumented aliens. A wide range of felony cases were included in both cities, using the population of cases in El Paso and a stratified random sample with equal probabilities in San Diego. We have reanalyzed the data from this research for use in the calculations presented below. A reanalysis of the data was necessary because Pennell, Curtis and Tayman (1989:45-92) present abridged results of their analyses in El Paso and San Diego. The reanalysis is based on logit models in which all of the independent and dependent variables are coded in an easily interpreted binary fashion.<sup>2</sup>

1. The quantity  $\psi$  can be estimated from known values of  $c_{xi}$  and  $c_{xz}$  and a standard age-specific schedule  $\lambda_x$ . Given the lack of information in this regard, we have used as a standard the national age-specific crime rates directly calculated from national statistics. This may not be an optimum choice but since age-specific crime rates seem to have a fairly universal and invariant shape (Hirschi and Gottfredson 1993), we are confident that our calculations will be robust to minor deviations from the standard pattern adopted here. The reader should recall that another assumption made along the way, namely that  $\delta_z$  and  $\iota_z$  are age-invariant, is probably more problematic, though we do not have sufficient evidence to suggest that it is less defensible.

2. The analysis is based on all 2,268 El Paso felony cases and 1,643 randomly selected San Diego felony cases processed from July 1, 1995, through June 30, 1986. A sampling fraction of .4 was used in San Diego to insure inclusion of a sufficient number of illegal aliens. The felony crime categories represented in both cities were: homicide (2%); rape (2%); robbery (11%); aggravated assault (19%); burglary (27%); larceny/theft (14%); motor vehicle theft (7%); and felony narcotics (18%). A methodologically conservative approach was used to identify legal and illegal immigrants. If the arrest report indicated that an arrestee was foreign-born and fit into additional categories, such as "interpreter needed" or "no permanent address," the person was considered a potential alien or non-U.S. citizen. The Immigration and Naturalization Service (INS) then examined its records to ascertain actual citizenship status. The INS review produced three groups: illegal aliens; legal immigrants; and those whose citizenship could not be confirmed. The illegal and legal immigrant categories are combined in the logit models estimated in this paper and the original categories are used in the cross-tabulations.

**Table 2 • Logit Models for Being Detained, Convicted, and Imprisoned in El Paso and San Diego**

Variables	El Paso		
	Pre-Trial Detention (n = 2253)	Conviction (n = 2253)	Incarceration (n = 885)
Immigrant	1.35 (.13)*	-.08 (.19)	-.52 (.40)
Male	.63 (.19)*	.48 (.19)*	.90 (.39)*
Less than 20	-.67 (.11)*	.34 (.11)*	-1.13 (.19)*
Violence	-.49 (.13)*	-.68 (.13)*	.43 (.25)**
Drugs	-.70 (.14)*	.06 (.14)	.08 (.24)
Violence*Immigrant	-1.10 (.26)*	-.09 (.29)	.36 (.53)
Drugs*Immigrant	-.82 (.39)*	-.20 (.30)	1.17 (.51)*
Detained		.44 (.11)*	1.74 (.19)*
Detained*Immigrant		.33 (.21)	-.61 (.42)
Log likelihood	-1420	-1449	-506
		San Diego	
	Pre-Trial Detention (n = 1286)	Conviction (n = 1286)	Incarceration (n = 815)
Immigrant	1.26 (.17)*	-.59 (.20)*	-.16 (.40)
Male	1.42 (.37)*	-.12 (.21)	-.16 (.40)
Less than 20	-.05 (.17)	.15 (.18)	-.32 (.25)
Violence	-.17 (.22)	-.33 (.21)	.18 (.70)
Drugs	-1.46 (.37)*	-.37 (.22)**	-2.96 (1.02)*
Violence*Immigrant	.05 (.30)	-.29 (.38)	.71 (.41)**
Drugs*Immigrant	-.07 (.44)	.57 (.33)**	2.16 (1.13)**
Detained		2.29 (.33)*	2.29 (.29)*
Detained*Immigrant		.79 (.42)**	-1.15 (.43)*
Log likelihood	-730	-683	-372

\* p < .05, two-tailed    \*\* p < .10, two-tailed

The results of our reanalyses of the El Paso and San Diego data sets are presented in Table 2. There is good reason to believe that given involvement in and arrest for a crime, Mexican and other immigrants are at greater risk of detention, conviction, and imprisonment than other groups. As noted above, pre-trial detention is known more generally to increase vulnerability to conviction and imprisonment, and in both El Paso and San Diego illegal aliens were much less likely than others to be released from jail prior to trial. For example, in El Paso only 14 percent of illegal immigrants compared to over 50 percent of all others were able to “bail-out” prior to trial. This difference may be associated with the fact that the Immigration and Naturalization Service can place “holds” on illegal immigrants, that illegal aliens are financially less able to post bail, that illegal immigrants are less likely to have the community ties often required for release, and that illegal immigrants and immigrants more generally are therefore more likely to be judged potential “flight risks,” from the time of arrest to final court disposition. The problem is that when accused persons are unable to obtain release they have greater difficulty generating resources to defend themselves in court, making them more vulnerable to conviction, and ultimately to imprisonment.

The results in Table 2 confirm that immigrants in general, in both El Paso and San Diego, are more likely to be detained prior to trial, and that in turn detention before trial greatly increases risks of conviction and imprisonment. Note, for example, that the coefficient for the variable "immigrant" is associated with relative risks of being detained that are 3.86 ( $\exp[1.35]$ ) and 3.52 ( $\exp[1.26]$ ) times as high as for non-immigrants in the El Paso and San Diego data respectively. The results also show that there are large effects of being detained on conviction (column 2) and on incarceration (column 3). Thus, for example, in the El Paso data the relative risk of being incarcerated for those who were detained is about 5.70 ( $\exp[1.74]$ ) times as high as for those who were not detained. Even taking into account the negative (but insignificant) effects of being incarcerated among those convicted ( $-.52$ ), the net effects of immigration status on final incarceration amounts to a relative risk that is 7.1 ( $\exp[1.35 + 1.74 - .52 - .61]$ ) times as large as for the non-immigrant. That is, immigrants are at greater risk of conviction and imprisonment because they are more vulnerable to pre-trial detention. In addition, although the effects are only borderline significant, immigrants in El Paso and San Diego who are charged with drug offenses are more likely than others to be sentenced to prison. Thus, the relative risks of an immigrant being incarcerated for committing a drug offense are twice as large ( $\exp[1.17 - .52]$ ) as for non-immigrants. These differences cannot be the result of immigrants having more extensive criminal histories, because noncitizens are much less likely to have known criminal records (Scalia 1996). Patterns of detention, conviction, and sentencing combine to increase the vulnerability of immigrants to incarceration, which we can now take into account in adjusting our calculations of imprisonment ratios. As discussed further below, to do this we have averaged the mean values and the effect coefficients for the predictor variables in the models estimated in El Paso and San Diego. We also did these calculations separately by city with results that do not change our conclusions (i.e., the lower bound estimate from either city led to identical substantive conclusions).

The results of the calculations outlined above are now brought together in the remaining columns of Table 1 that began in column one with the ratios of imprisonment rates which implied that immigrants are more involved in crime than citizens. In column two we observe that simply modifying the base for these calculations to consider 15 to 34 year old males reduces these ratios substantially. For example, the rate for Mexican immigrants (47.61) is now quite similar to the U.S. citizen rate (45.51). The resulting imprisonment ratio in the second column of Table 1 for Mexican to U.S. citizens therefore is approximately unity (1.046). The imprisonment rates for some of the remaining countries are still substantially higher than the citizen rate. The Jamaican, Guatemalan, and Colombian ratios cluster at an intermediate level, while the Dominican and Cuban rates cluster at a higher level. However, even the latter rates are now about three times the citizen rates, where they were previously more than four times the citizen rates.

We next calculate the terms included in equation (4), which first further adjusts the distribution between ages 15 and 34 of the various groups. From 1990 national census data we estimate that the first term in this expression,  $\psi$ , hovers around .98. In contrast with our earlier finding of strong age effects, this means that differences in age composition within this 15 to 34 age group exert only a trivial influence, in the direction of slightly inflating citizen's incarceration rates. Although changes within this specific age grouping in the future may introduce notable effects, for the moment our preliminary and more general adjustment for age is much more noteworthy.

We use the results from the logistic models above with El Paso and San Diego data to estimate effects of immigration relative to citizenship status on the probabilities of detention, conviction, and incarceration (if convicted). We first calculated average estimates of effects and mean values by pooling the San Diego and El Paso data.<sup>3</sup> We then used the mean values of the

3. There are a number of different ways to generate pooled estimates from the two data sets. We followed the most straightforward one, where no implicit weighting scheme is imposed.

variables and the estimated effects from the pooled sample to calculate predicted values for the corresponding probabilities and relative risks. We thus obtained values for the remaining constants in equation (4):  $\pi = 3.155$ ;  $\mu_1 = 1.650$ ; and  $\mu_2 = 1.708$ . The first of these figures implies that the average risk of detection among immigrants is more than three times the average risk for citizens. The next figure indicates that the average risk of conviction given detention among immigrants is 1.65 times as high as that among citizens. The final figure implies that the average immigrant risk of incarceration (given conviction) is 1.71 times as high as among citizens. It is clear from the differences in these quantities and the expressions derived above that observed differences between immigrants and citizens' incarceration rates are strongly and disproportionately affected not only by age differentials as indicated earlier, but also by differences in risks of detention prior to trial and sentencing.

We can now go on to actually estimate the consequence of introducing the contribution of each of the components in our analysis to differences between the observed incarceration rates. To do this we first write equation (4) more generically as:

$$Q = Q_0 F_1 F_2 F_3 F_4 \quad (5)$$

where  $Q$  stands for the ratio of  $I/Z$ ,  $Q_0$  for the ratio  $I^0/Z^0$  and  $F_k$ 's,  $k = 1, \dots, 4$  correspond respectively to the reciprocals of  $\psi$ ,  $\pi$ ,  $\mu_1$  and  $\mu_2$ . The addition of each new term to this equation alters the estimate of the adjusted incarceration rate, as revealed across successive columns two through six in Table 1.

Thus the first column displays the observed ratios of raw immigrant to citizen incarceration rates. The second column shows the new ratios of incarceration rates with 15 to 34 year old male population bases. Successive columns display the ratios of the incarceration rates among immigrants and citizens given the influence of the further adjustment for variation in the 15 to 34 year age grouping (column 3), the influence of age distributions and detention rates (column 4), the influence of age distributions, detention rates and conviction rates (column 5), and, finally, the influence of age distributions, detention rates, conviction rates, and jail sentencing (column 6). Column six can be interpreted as the estimated values that would be observed in the implied ratios of criminal behavior between immigrants and citizens if there were no differences between immigrants and citizens in age composition, detention rates, conviction rates, and rates of sentencing to prison. That is, with the assumptions spelled out earlier, these adjusted ratios are our estimates of the relative involvements of immigrants and citizens in crime.

Although we have not suggested that these estimates are in any sense precise, we have argued that they represent a more meaningful understanding of the relative involvements of immigrants and citizens in crime, based on an integration of our knowledge of the causes of criminal behavior and justice system reactions to it. The differences between these estimates and those based on prison statistics alone are striking. For example, recall that the ratios of the raw incarceration rates of immigrant groups and citizens in the first column of Table 1, excluding those from El Salvador and Guatemala, greatly exceeded unity, with Mexicans estimated more than twice as criminal as citizens, and Cubans and Dominicans more than four times more involved in crime. Adjusting the base age population to represent 15 to 34 year old males markedly reduces most of these ratios, although they still mostly exceed unity. A further adjustment for age within the 15 to 34 age category makes little difference in column three. However, when differences in detention were taken into account in column four, only the ratio for Cubans remains close to unity, while the remaining ratios move substantially below unity. Smaller reductions in these ratios occur with adjustments for risks in conviction and imprisonment in columns five and six.

The contrasts between successive columns in Table 1 indicate that the biggest sources of differences between estimated (unobserved) involvement in criminal behavior and observed incarceration rates derive from differences in the age composition of immigrant and citizen

groups and their relative risks of being detained prior to trial and sentencing. For example, the difference in inferences that results from taking these two factors into account is the gap between a ratio of raw incarceration rates that suggests Mexicans in the U.S. are twice as involved in crime as citizens, and a ratio that suggests that with age and detention differences taken into account, Mexicans are half if not less as involved in crime as citizens. Indeed, the revised estimates from our analysis go so far as to suggest that there may be no group of Hispanic immigrants that, with age, detention and other factors taken into account, is more highly involved in crime than citizens.

We would be remiss if we did not note a final source of misperceptions that may result from uncritical reliance on prison statistics. This final consideration involves the ways in which prison statistics are often used to more specifically characterize immigrant criminality in relation to drugs. The 1991 survey of state prison inmates reported that nearly half of all alien inmates were incarcerated for drug offenses, that about 40 percent of these alien inmates used drugs during the month prior to arrest, and that about 20 percent were under the influence of drugs at the time of their current offense. The 1991 survey reports that very high proportions of alien inmates from Columbia (87%) and the Dominican Republic (67%) were incarcerated for drug offenses.

While it is the case that just over 20 percent of all inmates were incarcerated for drug offenses in 1991, about half of all inmates said they had been using drugs in the month before their current offense, and more than 30 percent of all inmates said that they had been under the influence of drugs at the time of their current offense. So while there well may be a concentration in drug offenses among some imprisoned Hispanic offenders, especially from Columbia and the Dominican Republic, levels of drug use among Hispanic offenders in general seem to be about the same or lower than in the broader population of inmates. We do not know the extent to which the imprisonment of Hispanic defendants from particular countries for drug offenses is a product of their concentration in this kind of crime as contrasted with the courts selecting this kind of crime among immigrants from these nations for prison sentences.

However, we do have persuasive evidence that drug crime is *not* characteristic of legal immigrants, and is actually *uncharacteristic* of *illegal* immigrants. This evidence comes from a closer inspection of arrestees in the El Paso and San Diego criminal justice systems considered earlier. When arrestees are categorized by charge and citizenship status in these cities in Table 3, we see that immigrants are quite similar to citizens in their tendency to be arrested for drug, property, and violent crimes. Many drug offenders are prosecuted in the federal courts,

**Table 3 • Category of Arrest and Citizenship Status of El Paso and San Diego Arrestees\***

City/Arrest	Citizenship Status				Total
	U.S. Citizens	Illegal Aliens	Immigrants	Unconfirmed Citizenship Status	
<b>El Paso</b>					
Violent crimes	602 (36%)	86 (25%)	54 (35%)	33 (32%)	775
Property crimes	728 (44%)	226 (66%)	73 (47%)	50 (49%)	1,077
Narcotics violations	338 (20%)	32 (9%)	27 (18%)	19 (19%)	416
<b>San Diego</b>					
Violent crimes	1,283 (36%)	124 (23%)	36 (35%)	47 (26%)	1,490
Property crimes	1,555 (43%)	343 (63%)	37 (36%)	86 (47%)	2,021
Narcotics violations	760 (21%)	80 (15%)	29 (28%)	51 (28%)	920

\* Reconfigured from Pennell, Curtis and Tayman (1989:51, 74).

including many immigrant offenders, but the evidence in these settings is that noncitizen offenders tend more often than citizens to be involved in "minor" and "low level" drug offenses (Scalia 1996:7). Meanwhile, illegal immigrants are less likely to be arrested for drug and violent crimes, and more likely to be arrested for property crimes. About two thirds of the illegal immigrants in each of these cities are arrested for property crimes, with only nine to 15 percent arrested for drug crimes. The involvements of legal immigrants and citizens in drug crime cluster between 20 and 30 percent, and their involvements in property crime cluster between 40 and 50 percent.

## Discussion and Conclusion

We know relatively little about law making, breaking and punishment in relation to Hispanic populations of the United States. Noting the rapid growth of this and other immigrant sectors of the American population, Sampson and Lauritsen (1997:364) recently have suggested that, "the future picture of criminal justice processing may be closely tied to the experiences of race or ethnic groups that have heretofore been neglected by mainstream criminological research." At the same time, there is increasing public concern about the presence in prisons of immigrants generally, and Hispanics and Mexicans more specifically. This concern is increasing as state and federal governments become more conscious of the high costs of keeping these individuals in prisons. Sociological criminology has not kept pace with these changes, and it has not integrated the knowledge that it has available in ways that could notably improve public understandings of how ostensibly neutral immigration and criminal justice policies act to inflate Hispanic rates of imprisonment.

Imprisonment is a costly sanction, financially as well as otherwise, and the public and its politicians are eager to find ways to shift and reduce this expense. One response involves efforts by states to shift expenses to the federal government by demanding compensation for the costs of incarcerating immigrants; second is to press for the deportation of immigrants convicted of crimes; and a third response is to lobby for limitations on immigration and for stricter control of illegal immigration (see Cornelius, Martin and Hollifield 1994). It is of particular concern, in the political and economic context of cost shifting, that the same correctional departments that collect crime statistics may have a direct financial interest in the size of their immigrant inmate populations and in seeing these numbers reported and well publicized.

The purpose of this paper is not to assess directly the wisdom of the above policies, but rather as Sutherland and Cressey long ago urged, to integrate information and sociological knowledge about the relationship between immigration and crime. Prison statistics often are used to make the point that the number of immigrants in prison is large, and that a large proportion of immigrants who are in prison for drug charges are from Mexico. However, it is also plainly the case that increasing numbers of immigrants have been coming to the United States from Mexico to work for employers who are eager to have them as an inexpensive source of labor (Calavita 1994). These immigrants are disproportionately young and male, and therefore of an age and gender known to be disproportionately and transiently involved in crime, regardless of citizenship. So a first concern is to take into account not only the increased immigration that is occurring from Mexico, but also the age and sex distribution of these immigrants, in considering the numbers of Hispanic inmates and the connection of these numbers to immigration policies designed to provide inexpensive labor. When we take age and gender into account, we find Mexican immigrants, the most numerous Hispanic immigrants to the United States, are in state prisons at an adjusted rate that is not strikingly different from U.S. citizens.

Furthermore, it is important to take into account that, as a result of ostensibly neutral pre-trial detention policies, immigrants from Mexico and elsewhere are also subject to differential treatment in the criminal justice system. We have demonstrated that immigrants in El

Paso and San Diego are at greater risk of being detained prior to trial, and that this results in their increased likelihoods of being convicted and imprisoned. When our knowledge of this differential treatment is integrated into estimates of ratios of immigrant to citizen offenders, using equations that begin with observed numbers of immigrants and citizens in state prisons, we find that these ratios are reduced below unity, the level that would indicate that immigrants are as involved in crime as citizens. The results reported in the preceding two paragraphs cast doubt on the hypothesis that immigration causes crime and help to make more apparent the ways in which immigration and criminal justice policies inflate the representation of Hispanics in prisons. As Tonry (1997) suggests, this kind of analysis increases the prospect that unforeseen consequences of ostensibly neutral policies will become foreseeable, and as a result more prominent in the policy making process.

Meanwhile, it also often is argued that immigrants, and especially illegal immigrants, are a source of drug problems in the United States. Yet we have seen that there is little evidence that this is the case when arrest records in cities such as El Paso and San Diego are examined. In these cities we found that illegal immigrants are less likely than citizens to be involved in drug crime, and instead they are most distinctively involved in property crime. This kind of petty property offense activity is consistent with the picture of offending provided in Richard Freeman's (1996) foraging model of crime. Thus young male illegal immigrants may be most likely to become involved in petty property crime as they attempt to satisfy basic subsistence needs while moving through the early stages of seeking, finding, losing, and regaining employment. To the further extent that Hispanic Americans are overrepresented in prison statistics because of differential treatment by the criminal justice system, it may be necessary to extend Freeman's theory into a "forage and storage" model of crime that incorporates the effective "warehousing" of this group in penal institutions. Legal immigrants in El Paso and San Diego are involved in drug crimes at about the same rate as citizens, a finding that casts additional doubt on the hypothesis that immigration in and of itself causes crime.

Notwithstanding our conclusion that the link drawn between immigration and crime is misleading, to the extent of constituting a mythology—further work should nonetheless be attentive to at least two poorly understood issues. The first involves the important task of making projections into the future that take into account interrelations between immigration, fertility and social behavior. Here it is important to acknowledge and plan for the possibility that even if immigrant group propensities to crime remain unchanged from those we have estimated in this paper, higher rates of fertility among immigrant groups, either alone or in combination with other factors, such as criminal justice system bias, could result in immigrants forming steadily larger proportions of prison populations in the future. These processes are in need of further study.

Second, it is also likely that specific groups of immigrants, much like specific groups of citizens, do have a heightened propensity that leads them to be disproportionately involved in crime. This typically involves countries with relatively few immigrants to the United States. In these instances in which immigration is rather limited, there may be unique social networks and selection processes that explain the higher rates of crime involvement. If legal immigration from these countries were allowed to increase, it is plausible that rates of crime associated with these immigrant groups in the United States would substantially decline, if only because the effects of these selection processes and social networks would be diluted. We know too little about these special cases to say much more; certainly there are too few Cubans and Dominicans in our El Paso or San Diego data sources to allow confident conclusions. In any event, it would be quite dangerous to extrapolate from such cases to the experience of immigrants more generally.

Finally, our more general finding that Hispanic immigrants are not more involved in criminal behavior than citizens helps to resolve a paradox in the picture of Mexican immigration to the United States, since by other measures of well-being—including smoking, alcohol consumption, drug use, and pregnancy outcomes—Mexican immigrants are generally found

to do as well and sometimes better than citizens (Scribner 1996). This is often thought to be the result of the strength of extended and nuclear families and religion in Mexican communities. Insofar as this is the case, we may wish to place the priority in policy formation on ways to preserve, protect, and promote the social and cultural capital that Mexican immigrants bring to their experience in the United States. An increasing reliance on imprisonment likely detracts from this goal by banishing immigrant males from their families and communities.

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