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Sentencing and Risk Characteristics of Latino Sexual Offenders

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Pacific University

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Although Latinos account for twenty percent of the incarcerated population of the U.S., there is very little research looking at criminological and psychological characteristics of Latinos under criminal justice control. Further, many actuarial sexual recidivism risk assessments do not have normative data with minority offenders, even though they are used regularly in high stakes legal decisions. Thus, the present study examined the impact of race on sentencing outcomes as well as the Static-99 and the RRASOR, both actuarial sexual recidivism risk assessments. Using a matched sample of 36 males, 18 Latinos and 18 Whites, receiving outpatient treatment for sexual deviancy, the author compared mean sentence lengths and scores on the two measures between the groups. No statistical difference was found between White and Latino sexual offenders on either sentencing length or the risk assessment measures. Results are discussed in terms of how race impacts sexual offender sentencing and risk assessment. Limitations of the study as well as implications for forensic psychologists and ideas for future research are discussed.

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*Race of Offender and Type of Crime by Mean Total Sentence Length in Months*
Introduction

In 2000, Latinos\(^1\) usurped African Americans as the largest racial and ethnic minority group in the United States accounting for 12.5% of the total population compared to 12.3%, respectively (U.S. Census Bureau, 2000). In fact, the U.S. Census Bureau’s Population Projections Program suggest that by the year 2050, Latinos will make up 30.25% of the total population of the United States (U.S. Census Bureau, 2008). According to the United States Census Bureau (2000), the Latino population increased the most out of any single race-ethnicity in the decade of the 1990s, from 9% to 12.5% of the general population. As a corollary, it has been suggested that the Latino population played a significant role in the election of President Barack Obama by voting 67% for the Obama-Biden ticket versus 31% for the McCain-Palin ticket (Lopez, 2008). In light of these facts, it is clear that the Latino population has become the fastest growing and most influential minority group in the United States.

However, the Bureau of Justice Statistics (BJS) reported that in 2006, 60% of the prison population in the United States consisted of minority groups, while the United States Census data indicated that minorities made up only 31.9% of the population (Sabol, Couture, & Harrison, 2007; U.S. Census Bureau, 2000). In addition, the BJS reported that in 2007 Latinos made up 19.6% of the incarcerated population of the U.S., which is much higher than the non-criminal Latino population of the U.S. (Sabol & Couture, 2008). Considering that Blacks have consistently had higher incarceration rates than Whites for decades (currently Blacks make up 39% of the prison population, while only accounting for 12.3% of the general population [Sabol & Couture, 2008; U.S. Census Bureau, 2000]), it may be that the percentage of Latinos in the criminal justice system will grow as well in the coming decades. Considering the population projections of the U.S. Census Bureau, it is all the more possible that the incarcerated population

\(^1\) This author used the terms “Latino” and “Hispanic” interchangeably.
of Latinos in the United States will continue to grow. In any case, there is a discrepancy between the incarceration rate of Latinos and Whites in the United States, and it is likely that this discrepancy holds true for different categories of offenders, such as those convicted of sexual offenses. Two important criminal justice statistics, conviction rate and length of sentence, are crucial in the study of prejudice of the system. In addition, sexual offenders are often assessed for risk for recidivism as a measure of public safety risk. As it relates to Latino sexual offenders, there is little research on conviction rate, length of sentence, or risk characteristics, all of which are the focus of the current study.

Literature Review

Regarding sentencing discrepancies between majority and minority racial-ethnic groups in the United States, many researchers have found that minorities, especially Blacks, are more likely to be incarcerated than Whites (Chiricos & Crawford, 1995; Zatz, 2000). Reviewing major findings from the sociological and criminological literature, Zatz (2000) found that minorities are more likely to be under the control of the criminal justice system when race and other factors such as prior record, offense type, type of attorney, and employment status are accounted for. In a review of 38 empirical studies, Chiricos and Crawford (1995) reported that two-thirds of those studies found that Blacks were more likely to be incarcerated than Whites. Although sentence length is similar for Blacks and Whites, incarceration is 80% more likely for Blacks than Whites, even when controlling for severity of crime and prior record. Some researchers (Bullock, 1961; LaFree, 1980) have found that Black defendants are not only more likely to be found guilty, but also more likely to have longer sentences than White defendants when jurors are White.

Other researchers have found, through experimental manipulation of race-ethnicity of the defendant, that mock juries are more likely to levy longer sentences on Black defendants than
White defendants (Gray & Ashmore, 1976; Pfeifer & Ogloff, 1991; Sunnafrank & Fontes, 1983; Feild, 1979). In fact, Steffensmeier, Ulmer, and Kramer (1998) found that Blacks were one and a half times more likely to be found guilty and receive an average sentence of two months longer than Whites in Pennsylvania State courts from 1989 to 1992. During the period between 1993 and 1996, Blacks sentenced in federal court trials for nondrug offenses were more likely than Whites to be imprisoned (78.1% versus 67.1% respectively) and have significantly longer sentences (70.6 versus 44.0 months, respectively; Steffensmeier & Demuth, 2000).

However, far fewer researchers have studied the impact of Latino or Hispanic race and ethnicity concerning incarceration rates and sentencing length. Steffensmeier and Demuth (2001) have suggested that the dearth of research on Latinos in this area of criminology may be a result of researchers lumping Latinos in with Whites when describing participant race-ethnicity in research studies. However, researchers have found that as a racial-ethnic group, Latinos receive longer and harsher sentences than Whites, and even Blacks in some circumstances (Spohn & Holleran, 2000; Steffensmeier & Demuth, 2000; Ulmer & Johnson, 2004). Using criminal justice data from Chicago and Miami of offenders who had been convicted of felonies, Spohn and Holleran (2000) found that Blacks in Chicago were 12.1% more likely than Whites to be sentenced to prison, while Hispanics in Chicago and Miami were 15.3% and 10.3%, respectively, more likely than White offenders to be sentenced to prison. The difference in likelihood for incarceration in Miami between Blacks and Whites was not significant. Although the aforementioned study looked at the likelihood of a prison sentence for all crimes, Steffensmeier and Demuth (2000) reported that 73.3% of Hispanics were sentenced to prison for federal nondrug offenses compared to 67.1% of Whites during the period between 1993 and 1996. The finding that Hispanic offenders are more likely to be sentenced to prison than Whites for non-
drug offenses, dispels the claim that overrepresentation of minorities in prisons is only due to the rise in drug offense convictions.

Furthermore, Ulmer and Johnson (2004) found support for the hypothesis that incarceration length was influenced by race-ethnicity in that Blacks and Hispanics were sentenced more harshly in places with greater concentrations of Blacks and Hispanics in Pennsylvania. In addition, these same authors reported that the county-level concentration of Hispanics was positively related to sentencing severity, but did not find the same results for Blacks. Considering the growing societal and cultural importance of the Latino population currently and in the future of the United States, as well as the few studies that have reported disproportionate sentencing outcomes for Latinos, this research is disconcerting.

However, not all researchers who study racial-ethnic biases of the criminal justice system suggest that juries or judges have made biased judgments during the adjudication phase of a criminal trial (Blumstein, Cohen, Martin, & Tonry, 1983; Hagan, 1974; Kleck, 1981, 1985; Neubauer, 1996; Wilbanks, 1987). In fact, some researchers suggest that seriousness of particular crimes (e.g. murder, sexual assault) may override extralegal factors such as race-ethnicity (Kingsnorth, Lopez, Wentworth, & Cummings, 1998). These same authors found that race did not have a significant impact on criminal justice decision-making (i.e. going to trial versus negotiating a plea agreement, giving a jail versus a prison sentence, and determining sentence length) during adjudication of major sexual assault cases in Sacramento, California. However, because of the lack of knowledge concerning race-ethnicity and its effect on adjudication in regards to Latinos, no consensus can be found in the sociological, criminological, or legal literature regarding the role of race-ethnicity in legal decision-making (Kingsnorth et al., 1998).
Other researchers have suggested that race-ethnicity of the defendant may have a greater impact on severity and length of sentencing compared to adjudication outcome (Kingsnorth et al., 1998). This is especially true in sexual assault cases in which the defendant is Black and the victim is White (LaFree, 1980; Kingsnorth et al., 1998, Walsh, 1987, Spohn, 1994; Spohn & Spears, 1996). In fact, Spohn and colleagues have consistently found that Blacks are not only more likely to be convicted of sexual assault when the victim is White, but serve longer sentences than any other race-ethnicity perpetrator-victim dyad combination (e.g. Black perpetrator and Black victim or White perpetrator and White victim; Spohn, 1994; Spohn & Spears, 1996). Researchers found that Blacks who had been convicted of sexual assault of a White victim were eighteen times more likely to receive the death penalty than any other perpetrator-victim combinations (Wolfgang & Riedel, 1973). The aforementioned study was published before 1977, when the Supreme Court held that the death penalty constituted cruel and unusual punishment for a conviction of sexual assault under the Eighth Amendment to the United States Constitution in *Coker v. Georgia* (422 U.S. 584, 1977),

Many states, including Oregon, have turned to strict sentencing guidelines, or mandatory minimum sentencing, for adjudication of felonies, in part to reduce discretionary bias of judges and juries (Merritt, Fain, & Turner, 2003). Interestingly, many judges will make downward departures (i.e. reduce lengths of sentences) from the sentencing guidelines to accommodate for mitigating factors of the defendant (Engen, Gainey, Crutchfield, & Weis, 2006). However, researchers in Pennsylvania, where similar mandatory minimum sentencing guidelines like Oregon’s Measure 11 are in place, have found that Latinos are less likely to receive favorable departures from sentencing guidelines than Whites, and in some cases, Blacks (Johnson, 2003; Kramer & Ulmer, 2002). Although there is not a consensus among researchers in this area, there
is enough evidence to suggest concern that Latinos may be more likely to be adjudicated and sentenced more harshly than Whites in terms of violent felonies.

*Latino Sexual Offenders*

There is little information to date concerning the impact of race-ethnicity, in particular the Latino population, on sexual offender adjudication and sentencing. The few researchers who have investigated this interaction have reviewed race-ethnicity demographics of offenders who have been committed under SVP statutes (Becker, Stinson, Tromp, & Messer, 2003; Vess, Murphy, & Arkowitz, 2004). In a study of the characteristics of sex offenders who were petitioned for civil commitment, Becker et al. (2003) examined a sample of 120 men from the state of Arizona. These researchers reported that 69% of the sample was White, 14% was Latino, 10% was Black, 2.5% was Native American, and 3.5% was “unknown.” The American Community Survey (2002) of the Arizona population of 2002 found that 62% of the population was White, 27% was Latino, 2.7% was Black, 4.2% was Native American or Alaska Native, and 3.9% consisted of Native Hawaiians and Pacific Islanders, Asians, “other,” and those who identified as two or more races.

Thus, Black sexual offenders were committed under SVP statutes in Arizona at a higher rate, while Latino sexual offenders were committed at a lower rate in this study when compared to the non-incarcerated population demographics. The difference in rates of civil commitment for Black sexual offenders under SVP statutes in Arizona may suggest a racial bias. In addition, the conceptualization of race for demographic purposes was not described in the aforementioned study, which could impact the number of offenders who were categorized as White instead of Latino. Another possible confounding variable is that many Latino sexual offenders may be deported after serving a prison sentence, which would lower the likelihood that they would be
civilly committed. Since those offenders who are deemed to be an SVP are committed to indefinite civil commitment terms, any racial bias in the judicial process must be addressed to ensure due process.

Vess et al. (2004) conducted a study to compare the demographic characteristics of the SVP population and other civilly committed psychiatric inpatient populations in the state of California. The other civil commitment psychiatric inpatient population consisted of mentally disordered offenders, transferred mentally ill prisoners, patients found incompetent to stand trial, or not guilty by reason of insanity, and those committed under unspecified civil commitments. There were 403 individuals under SVP civil commitments and 631 individuals under other civil commitments. Vess et al. (2004) found that individuals under SVP commitments were much more likely to be Caucasian (66%) than were other individuals under psychiatric inpatient civil commitments (41%). Twenty-one percent of the SVP population was African American, whereas 31% of the other civil commitment patients were African American. Eight percent of the SVP population was Hispanic, whereas 23% of the other civil commitment patients were Hispanic. Finally, 5% of both the SVP and other civil commitment patients were categorized as “other” in terms of their racial or ethnic group. It is difficult to determine the reasons for which percentages of minorities are disparate under different civil commitment statutes in California, but it highlights the need for more research regarding race-ethnicity and high-risk populations.

According to the American Community Survey (2003) of the population demographics of California in 2003, 45% of the population was White, 6% of the population was Black, 35% of the population was Latino, and 14% of the population was made up of Asians, Native Hawaiians or Pacific Islanders, those who categorized themselves as “other,” and those who categorized themselves as two or more races. As evidenced by Becker et al. (2003) in their Arizona sample,
Vess et al. (2004) reported that individuals under civil commitment for SVP status have disproportionate racial-ethnic demographic characteristics compared to the general population of California. More importantly, the same phenomenon that was reported in Becker et al. (2003) was found in the current study, that Black sexual offenders were designated as SVP at a disproportionate rate than the non-offending Black population of California (Vess et al. 2004). Furthermore, Latino sexual offenders were civilly committed under SVP statutes at a disproportionately lower rate than the non-offending Latino population of California. This finding may be affected by the deportation of many Latino sexual offenders after completion of their prison sentence, lowering the likelihood for ex post facto civil commitment. Finally, like in the Becker et al. study, the conceptualization of race was not reported by Vess et al. (2004), which may affect the demographic statistics that were reported.

Tzeng, Robinson, and Karlson (1999) conducted a retrospective archival study of 532 individuals who had been adjudicated for child sexual abuse from 1986 to 1989 in Indiana. The researchers hypothesized that the offenders would have distinctly different demographics compared to the overall population of Indiana. They found that 67.9% of the offenders were Caucasian, whereas 30.8 % of the offenders were reported as minorities. In contrast, the authors found that in Indiana, Caucasians made up 77.7 % of the population, whereas minorities made up 22.3 %, according to 1987 census information. In addition, the authors hypothesized that those with a history of substance abuse, a history of mental health problems, and/or a history of negative childhood experiences would be more likely to be found guilty and would receive stricter judicial penalties. Thus, the prevalence of child sexual abuse is associated with these socially disadvantageous characteristics and may be a predictor of prosecutorial discretion and judicial intervention in child sexual abuse cases. Interestingly, alleged White child sexual abuse
offenders reported a mental health history as well as negative childhood experiences at a significantly higher rate than alleged minority child sexual abuse offenders. Thus, the authors concluded that those characterized as socially disadvantaged because of a history of mental health problems, substance abuse, and negative childhood experiences, “were consistently charged for more serious offenses and received longer terms of imprisonment” (Tzeng et al., 1999, p. 76).

However, there are limitations to this study regarding the researcher’s operational definition of race-ethnicity. All defendants deemed to be non-White were categorized as minorities and the authors did not report incarceration rates in terms of the race-ethnicity of the offenders (Tzeng et al., 1999). Although mostly alleged White offenders made up the socially disadvantaged group, minorities were still adjudicated at a high rate. The authors found that alleged offenders who were characterized as a racial minority, the poorly educated, labor workers, and/or the unemployed were also adjudicated for a sexual offense against a child at a higher rate than was the non-disadvantaged group (Tzeng et al., 1999). This begs the question as to whether being a minority, or categorized as non-White, was just as socially disadvantageous in terms of convictions within the criminal justice system when compared to a history of mental health problems, substance abuse problems, and negative childhood experiences.

The aforementioned three studies were all conducted with populations of sexual offenders of differing demographic and sentencing characteristics. Although the operational definition of minority was unclear in their study, Tzeng et al. (1999) described that minority offenders are more likely to be charged with child sexual abuse, charged for more serious offenses, and given longer incarceration terms than White sexual offenders. Becker et al. (2003) and Vess et al. (2004) found that persons under the Arizona SVP statute had disproportionate
demographic characteristics to the general population. Specifically, both of the sets of researchers focusing on the civilly committed under SVP statutes found that Black sexual offenders were committed at a higher rate than the non-offending Black population, while Latino sexual offenders were committed at a lower rate than the non-offending Latino population. A possible confounding variable of this finding is that many Latino sexual offenders may be deported after serving a prison sentence, which would lower the number of civilly committed Latino sexual offenders. The difference in demographic characteristics of different populations of sexual offenders demonstrates that race-ethnic group classification may be an important part of further study concerning sentencing.

However, there seems to be a relative scarcity of data that examines race-ethnicity in relation to sexual offenders. In addition, the few researchers who have investigated these two subjects have not clearly defined participant racial-ethnic group membership (Hicks, 2004). Researchers have found little genetic validity with the construct of race, as Hicks (2004) described that, “the average genetic variation between individuals of the same race is as great as any genetic variation between racial groups” (p. 21). Ethnic, as defined by the Merriam-Webster Dictionary (2008), is “of or relating to large groups of people classed according to common racial, national, tribal, religious, linguistic, or cultural origin or background.” Because ethnicity is such a broad construct, a person who, for example, identifies with the ethnic group of Latino may be an individual who has “personal or ancestral origins in Latin American countries (Spain and Portugal are sometimes included) and who are often united by the Spanish (or Portuguese) language” (Hicks, 2004, p. 22). Without clear operational definitions of race-ethnicity, definitive relationships cannot be examined between and within races in relation to sentencing characteristics.
Risk Assessment of Sexual Offenders and Race-Ethnicity

Since the passage of the first Sexually Violent Predator law in Washington State in 1990, research on clinical and actuarial risk assessment measures of sexual offense recidivism has been rapidly expanding (Hanson, 2003; Hickey, 2006; Rogers & Jackson, 2005). From this research, four risk assessment measures, the VRAG (Harris, Rice, & Quinsey, 1993), the SORAG (Quinsey, Harris, Rice, & Cormier, 1998), the Rapid Risk Assessment for Sexual Offense Recidivism (RRASOR; Hanson, 1997), and the Static-99 (R. K. Hanson & Thornton, 2000), have been reasonably well-validated with moderate or higher sexual offense recidivism (Barbaree, Seto, Langton, & Peacock, 2001; Seto, 2005). However, the normative populations for these four risk assessment measures have been primarily White, Canadian, incarcerated sexual offenders (Harris, Rice, Quinsey, Boer, & Lang, 2003).

In the revised coding manual of the Static-99, the researchers stated, “most members of the original samples from which recidivism estimates were obtained were white” (Harris, Phenix, Hanson, & Thornton, 2003, p.7). In addition, Harris et al. (2003) described, “race has not been found to be a significant predictor of sexual offence recidivism” (p. 7) based on the successful use of the Static-99 with Aboriginal Canadian sex offenders (Nicholaichuk, 2001). In spite of the lack of research involving race-ethnicity, the Static-99 is one of the most statistically sound and most widely used actuarial risk assessment measures (Seto, 2005). Hanson (1997), in the manual of the RRASOR, does not mention race-ethnicity or cite research on the effect of race-ethnicity on sexual offense recidivism. This is the same for the VRAG and SORAG, both of which were normed on two samples of mostly White psychiatric inpatients (Quinsey, Harris, Rice, & Cormier, 2006).

Considering that these actuarial risk assessments are used routinely in psycholegal
evaluations by clinical psychologists with racial-ethnic minorities in the United States, more research is needed to assess their validity and reliability with racially and ethnically diverse populations. In Forbes’ (2008) dissertation, the only study that has looked at racial differences in terms of actuarial sexual offense recidivism risk assessments other than Nicholaichuk (2001), the author found that Black sexual offenders scored significantly higher on the Static-99, RRASOR, and MnSOST-R than White sexual offenders incarcerated within the Kentucky Department of Corrections. These offenders were assessed for risk of sexual offense recidivism in pre-sentence and pre-release proceedings at a Kentucky state prison. However, without clear psychometric evidence to support the reliability and validity of these measures in assessing risk of racially and ethnically diverse populations, these measures may not be adequate. Furthermore, since the legal decisions that are influenced in part by the use of these instruments can be serious and weighty, it is vital to critically evaluate their efficacy as it relates to minority populations of offenders.

**The Current Study**

At present, there is little research on the characteristics of Latino sexual offenders, in terms of both criminal sentencing and risk assessment measures. Considering that racial minorities, including Latinos, are overrepresented at every level of the criminal justice system, it is likely that Latino sexual offenders are also overrepresented which may be a sign of prejudice in the criminal justice system. Furthermore, clear operational definitions of race-ethnicity of the population being studied are needed in order to describe the differences that racially and ethnically diverse sexual offenders may present to public safety. In addition, the current researcher investigated the risk posed to public safety by Latino sexual offenders versus White sexual offenders, and whether harsher sentences for Latino sexual offenders are related to the estimated risk this population may pose to the public. Risk assessment is an area of the research
literature where there is a dearth of information on race-ethnicity and its impact on the risk posed by adult sexual offenders. Yet, as a result of deportation of many Latinos finishing prison terms for felony convictions, it is assumed that most Latinos who are assessed by actuarial measures would pose less risk to the American public.

The goal of this paper will be to contribute to the existing body of knowledge of racial differences, specifically the U.S. Latino population, between sexual offenders. In addition, the paper will add to both the criminological as well as the psychological literature regarding racial differences in sentencing length and racial differences among actuarial risk assessment measures, respectively. As previously mentioned, the criminological literature indicates that Latinos may be more likely to be adjudicated and sentenced more harshly than Whites in terms of violent felonies. The following hypotheses will be investigated concerning the adjudication of Latino sexual offenders: 1) Latinos will be incarcerated at a higher rate than Whites and 2) Latinos will have longer sentences than Whites.

Additionally, following the previously mentioned literature regarding longer sentence length and minorities, the author looked at whether the race of the offender and type of crime committed contributed to sentence length. The following hypothesis will be investigated concerning sentence length, the crime committed, and race of offender: Latinos will have longer sentences than Whites, specifically, when the crime committed by a Latino sexual offender is a penetrative crime versus a non-penetrative or non-contact offense.

As reported by the New York Times (Preston, 2008), the U.S. Immigration and Customs Enforcement Agency (ICE) has recently stepped up efforts to deport illegal immigrants back to their country of origin after serving jail and prison sentences to lower the cost of housing that is burdening federal and state prisons. Therefore, it is more likely that those serving sentences for
felony sexual offenses would have been deported, thus lowering the possibility of being in the sample population. Finally, the author found that more of the Latinos than the Whites in the sample population had been convicted of Rape in the Third Degree under the Oregon Revised Statutes (ORS) ch. 743, §109 (1971) and ch. 628, §1 (1991). These statutes state “a person commits the crime of rape in the third degree if the person has sexual intercourse with another person under 16 years of age.” Following these observations of the sample population, it is hypothesized that Whites will have higher scores on the Static-99 and the RRASOR, thus posing a higher risk to the public, than Latinos.
Method

Setting and Sample

Client files of 54 (27 White, 27 Latino) male clients who had been convicted of a sexual offense and were referred to an outpatient mental health facility for evaluation and/or treatment were used in the current study. Most of the clientele is White and monolingual English-speaking, but the agency has provided psychosexual evaluations and a treatment program for Latino, monolingual Spanish-speaking and bilingual Spanish and English-speaking clients. The men’s groups, both in Spanish and in English, consist of 10 to 12 clients who meet for two hours on a weekly basis. The primary components of the treatment program for men are orientation, arousal control, cognitive therapy, relapse prevention, men’s group, and support groups. Cognitive restructuring is done in both a group and individual treatment setting and focuses assisting the client in accepting responsibility for their offending behavior, and developing new skills intended to prevent relapse, and creating a healthy and balanced life style.

The agency also conducts psychosexual evaluations in which the clients are required to complete a lengthy psychosexual questionnaire, as well as personality, cognition, interpersonal functioning, and sexual fantasy scales. Evaluation clients participate in a polygraph examination in addition to a penile plethysmograph to assess appropriate and deviant arousal. The clients were all from the Portland metropolitan area and ranged in ages from 18 to 60 ($M = 31.31, SD = 12.07$). For the 26 Latino client files that reported a preferred language, 18 reported that Spanish was their preferred language, while eight clients reported that English was their preferred language. Preferred language was categorized by either the language used in the self-report assessment measures, through the criminal justice documentation, or by the staff member who had interviewed the client. In addition, for the 21 Latinos for which country of origin was
documented, 15 were from Mexico, four were from the United States, one was from Cuba, and one was from El Salvador.

All clients had been convicted of a sexual offense, as defined by the Oregon Revised Statutes at the time of the study. Most of the clients had been referred for evaluation of treatment needs, specifically for outpatient mental health treatment concerning their sexual offending behavior. Client race, Latino and White, was determined through court papers, photographs of the clients, written language (Spanish or English), self-report of race on psychosexual history inventory and/or country of origin.

Latino clients were matched with appropriate White counterparts on the type of crime that was committed, the age of the client, the gender of the victim ($N = 74$, 3 boys, 71 girls), and the age of the victim (range = 1-41, $M = 14.59$, $SD = 8.05$). Table 1 shows the breakdown of gender of victim and type of crime by race. Of the 54 clients, ten offended against children, those victims 18 years of age or less, and 44 offended against adults. For matching purposes, type of crime was categorized as a penetrative, non-penetrative, or non-contact sexual offense. Those categorized by “penetrative” type of crime were convicted of Rape, Attempted Rape, or Sodomy; those crimes termed “non-penetrative” were those convicted of Sexual Abuse or Attempted Sexual Abuse; and, “non-contact” refers to those who were convicted of Exhibitionism.

Table 1

<table>
<thead>
<tr>
<th>Race of Offender</th>
<th>Gender of Victim</th>
<th>Number</th>
<th>Type of Crime</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>White ($N = 27$)</td>
<td>Female</td>
<td>43</td>
<td>Penetrative</td>
<td>8</td>
</tr>
<tr>
<td></td>
<td>Male</td>
<td>2</td>
<td>Non-Penetrative</td>
<td>17</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Non-Contact</td>
<td>2</td>
</tr>
<tr>
<td>Latino ($N = 27$)</td>
<td>Female</td>
<td>28</td>
<td>Penetrative</td>
<td>11</td>
</tr>
<tr>
<td></td>
<td>Male</td>
<td>1</td>
<td>Non-Penetrative</td>
<td>14</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Non-Contact</td>
<td>2</td>
</tr>
</tbody>
</table>
Then, White clients were matched with Latino clients if their age was within five years of each other (plus or minus five years of the age of the Latino client). Next, White and Latino sexual offenders were matched on the basis of the gender of the victim. Finally, the age of the victim was matched for the White and Latino sexual offender counterparts using the same method used to match the age of the clients. Type of crime was gleaned from court records, while the age of client, gender and age of victim were reported on both court records and the psychosexual history inventory of the client.

Materials

Static-99

The Static-99 is an actuarial risk assessment used to predict the probability of sexual offense recidivism (R. K. Hanson & Thornton, 2000). The Static-99 includes ten items shown to have an empirical relationship with sexual recidivism (see Appendix A). To evaluate predictive ability of risk assessment measures, researchers have used ROC (receiver operating characteristic) curves, which compares the true positive rate versus the true negative rate, in this case of sexual offense recidivism. In the manual of the Static-99 (Harris et al., 2003), the authors report that most of the replication studies have found a mean ROC of .72, which is relatively high for a measure. In particular, the authors reported that the few studies done on community samples of sexual offenders, found the range of ROC from .59 (Harris et al., 2003) to .73 (Beech et al., 2002). Nicholaichuk (2001) found that the Static-99 performed comparably when used with Aboriginal Canadians to the original norming sample of White Canadians. In addition, Långström (2004) found that the Static-99 and the RRASOR was unable to differentiate Asian-African sexual offenders from Sweden who were sexual or violent recidivists from those who were non-recidivists.
The Rapid Risk Assessment for Sexual Offense Recidivism (RRASOR; Hanson, 1997) is an actuarial risk assessment that was developed to predict sexual offense recidivism. There are four items in this risk assessment measure: 1) prior sexual offenses; 2) current age of offender; 3) victim gender, and; 4) offender’s relationship to the victim (see Appendix B). Langton, Barbaree, Seto, Peacock, Harkins, et al. (2007) reported that the AUC (area under the curve of the ROC), which is used as a measure of predictive validity for events that have low base rates like sexual offenses, for the RRASOR and the Static-99 were .68 and .64, respectively. AUC values above .50 indicate predictions that are better than chance and the values for both the RRASOR and the Static-99 were significantly better than chance (Langton et al., 2007). Because Hanson and Thornton (2000) combined the RRASOR and the SACJ-Min (Grubin, 1998) to create the Static-99, the two measures have consistently showed comparable validity, reliability, and predictive ability (Barbaree et al., 2001).

Procedure

The agency has maintained records on their treatment and evaluation clients since 1982. After receiving Institutional Review Board approval, this author joined a group of graduate students who had organized the client files by putting them in chronological order and calculated the number of files in each year as well as the total number of files. A sample was then selected from the total number of files. All files of Latino clients who had been convicted of a sexual offense were included in the study. Data from the files was entered on site using SPSS for statistical analyses.
Results

Regarding the subjects \((N = 40)\) for whom months incarcerated was recorded, the average client spent over a year incarcerated \((M = 77.55\) months, \(SD = 65.97)\), although Latino sexual offenders \((M = 63.80, SD = 58.50)\) spent less time incarcerated than White sexual offenders \((M = 91.30, SD = 73.44)\). Looking at those offenders \((N = 36)\) who were scored on the Static-99, Latinos \((M = 2.42, SD = 0.97)\) scored less than Whites \((M = 2.71, SD = 1.40)\). Continuing to look at those same offenders who had been matched \((N = 36)\), Latinos \((M = 1.13, SD = 1.36)\) scored less than White sexual offenders \((M = 1.92, SD = 1.50)\) on the RRASOR.

A chi-square test was conducted to evaluate whether race-ethnicity had a significant effect on likelihood of incarceration. Of the 52 offenders for which type of criminal justice control was obtained (see Table 2), the results indicated that the number of Latino sexual offenders who had been incarcerated versus receiving probation only was not significantly different from the number of White sexual offenders who had been incarcerated versus receiving probation only, \(\chi^2(5) = 5.48, p = .36\). Whites and Latinos received types of sentences in similar proportions to each other.

<table>
<thead>
<tr>
<th>Race</th>
<th>Incarcerated</th>
<th>Probation Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>Latinos</td>
<td>17</td>
<td>9</td>
</tr>
<tr>
<td>Whites</td>
<td>18</td>
<td>8</td>
</tr>
</tbody>
</table>

To evaluate whether Latino sexual offenders had longer sentences than White sexual offenders, a paired-sample \(t\) test was conducted. The results indicated that the mean sentence length, in months, for Latino sexual offenders \((M = 63.80, SD = 58.50)\) was not significantly greater than the mean sentence length, in months, for White sexual offenders \((M = 91.30, SD = 73.44)\), \(t(19) = -1.26, p = .23\). The effect size index, \(d\), was .28. The 95% confidence interval for
the mean difference between the sentence length of Latino and White sexual offenders was - 73.38 to 18.38.

A 2 x 3 factorial analysis of variance (ANOVA) was conducted to evaluate the effects of race and type of crime on total sentence length in months. The means and standard deviations for the number of months incarcerated (jail and prison) as a function of the two factors (race and type of crime) are presented in Table 3.

Table 3

<table>
<thead>
<tr>
<th>Race</th>
<th>Type of Crime</th>
<th>Number</th>
<th>Mean</th>
<th>SD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Caucasian</td>
<td>Penetrative</td>
<td>8</td>
<td>113.5</td>
<td>99.05</td>
</tr>
<tr>
<td></td>
<td>Non-Penetrative</td>
<td>9</td>
<td>85.3</td>
<td>47.67</td>
</tr>
<tr>
<td></td>
<td>Non-Contact</td>
<td>3</td>
<td>56.0</td>
<td>60.70</td>
</tr>
<tr>
<td>Latino</td>
<td>Penetrative</td>
<td>9</td>
<td>74.8</td>
<td>76.87</td>
</tr>
<tr>
<td></td>
<td>Non-Penetrative</td>
<td>9</td>
<td>61.7</td>
<td>41.00</td>
</tr>
<tr>
<td></td>
<td>Non-Contact</td>
<td>2</td>
<td>24.0</td>
<td>N/A</td>
</tr>
</tbody>
</table>

The results indicated a non-significant main effect for race, $F(1, 34) = 1.45, p = .237$, and a non-significant main effect for type of crime, $F(2, 34) = 1.30, p = .285$, on sentence length in months. In addition, a significant interaction effect was not detected between race and type of crime, $F(2, 34) = 0.070, p = .932$, partial $\eta^2 = .004$. Because the interaction effect between treatment and gender was not significant (see Figure 1) the simple main effects were not examined. Although small sample size may have contributed to the non-significant findings, the group means look different from each other and may demonstrate a true pattern.

A paired-sample $t$ test was conducted to evaluate whether Latino and White sexual offenders differed on the Static-99, an actuarial risk assessment measure. The results indicated that the mean score on the Static-99 for Latinos ($M = 2.42, SD = 0.97$) was not significantly different than the mean score on the Static-99 for Whites ($M = 2.71, SD = 1.40$), $t(23) = -0.91, p$
sentencing and risk.

The effect size index, $d$, was .19. The 95% confidence interval for the mean difference between Latino and White sexual offenders on the Static-99 was -0.96 to 0.37.

Figure 1

Race of Offender and Type of Crime by Mean Total Sentence Length in Months

A paired-sample $t$ test was conducted to evaluate whether Latino and White sexual offenders differed on the RRASOR. The results indicated that the mean score on the RRASOR for Latinos ($M = 1.13, SD = 1.36$) was not significantly different than the mean score on the RRASOR for Whites ($M = 1.92, SD = 1.50$), $t(23) = -7.84, p = .08$. The effect size index, $d$, was .38. The 95% confidence interval for the mean difference between Latino and White sexual offenders on the RRASOR was -1.68 to 0.10.
Discussion

Review of Findings

To date, little research has been completed on Latino sexual offenders. Access to Latino sexual offenders as well as the ability to closely match Latino and White clients similar in age, the age and gender of the victim, and the type of crime committed are characteristics distinctive to of the current study concerning sexual offenders, risk assessment, and racial diversity. Additionally, participant information was gathered from a community treatment setting, rather than the more common correctional setting. Further, this study moves beyond demographic descriptions of Latino sexual offenders and their crimes and begins to evaluate the similarities of Latino and White sexual offenders in terms of the potential risk for sexual recidivism that they pose towards the public.

It was hypothesized that Latinos would be incarcerated at a higher rate than Whites. The chi square test showed a non-significant difference between Latino and White sexual offenders based on being incarcerated, either in county jail or state or federal prison, versus receiving probation only. These results support Kingsnorth et al.’s (2001) finding that seriousness of some offenses, specifically sexual offenses, may override extra-legal factors such as race. Therefore, there is no evidence to suggest that Latino sexual offenders in this sample were more likely to face incarceration than Whites.

Although no significant differences were found between Latino and White sexual offenders and length of sentence, Whites spent on average 27.5 more months under criminal justice control than Latinos. The effect size was moderate for the difference ($d = .28$), indicating that race accounted for almost thirty percent of the variance. In addition, the factorial ANOVA indicated that Latinos who were convicted of penetrative, non-penetrative, or non-contact sexual
offenses did not spend significantly more months incarcerated than Whites who committed similar offenses. However, the general finding that Whites on average spent more time under criminal justice control than Latinos when convicted of similar offenses was contrary to this author’s hypothesis.

Further, Whites scored higher, although not significantly higher, on the Static-99 and RRASOR with effect sizes in the small \( (d = .19) \) and moderate \( (d = .38) \) range, respectively. The effect sizes demonstrate that race does account for a small, but important, percent of the variance in the differences between actuarial sexual recidivism risk assessments.

**Implications**

Overall, the findings of this study add to the literature concerning both criminological and psychological factors concerning racial diversity of sexual offenders. Latino sexual offenders at this outpatient treatment center, on average, victimized fewer people, were more likely to be convicted of statutory rape, were incarcerated for fewer months regardless of type of crime, and scored lower on both the Static-99 and RRASOR than White sexual offenders. Even though deportation may have confounded the study, the results show important differences between Latino and White sexual offenders on sentencing and risk characteristics.

After examining descriptive statistics, White sexual offenders victimized more persons \( (N = 45) \), than Latinos \( (N = 29) \), a difference of 21.6 percent. Although number of victims was not a pre-planned analysis, this author found that the higher victimization rate of Whites rather than Latinos advances the characterization of both racial groups in terms of sexual offending. Further, Whites were more likely (63%), to commit non-penetrative rather than penetrative sexual offenses compared to Latinos (51.9%). Although Latinos were more likely to commit penetrative (40.7%) than Whites (29.6%), penetrative crimes were defined by any conviction of
Rape, Attempted Rape, or Sodomy under ORS (ch. 163, 1999), including statutory offenses. While none of the White offenders in this study was convicted of statutory rape, 18.5 percent of convictions of Latinos consisted of statutory offenses, which may account for the higher likelihood that Latinos committed penetrative sexual offenses.

**Limitations**

The most significant limitation of this study is the sample size. Because of the small sample size, the results found in this study may only generalize to outpatient agencies conducting treatment and assessment of sexual offenders in the Pacific Northwest of the United States. In addition, no other study has looked specifically at Latino sexual offenders, thus, making it difficult to compare sample sizes and assess generalizability. Again, deportation of illegal immigrants after serving felony sentences may have confounded these analyses as it is more likely that those offenders would have been deported, lowering the possibility of being in the sample population.

A second limitation includes the psychometric properties of some of the measures used. For example, the Static-99 and RRASOR are designed for use with male sexual offenders, although the normative populations were mostly White and Canadian (Harris et al., 2003). Despite this limitation, no alternative measures are available that would be more appropriate, and they are the measures regularly and historically used in legal proceedings aimed at prediction of risk for sexual recidivism among sexual offenders as well as by the agency conducting the treatment and evaluation of the participants in this study. Furthermore, the Static-99 and RRASOR are the most statistically sound actuarial sexual recidivism risk assessments (Seto, 2005).
Directions for Future Research

Like Långström (2004) found with African-Asian versus European sexual offenders in Sweden and Forbes (2008) found with Black versus White sexual offenders in Kentucky, the current study found that there might be differences in sexual recidivism risk posed to the public by Latino and White sexual offenders in the United States. Although Långström (2004) found that African-Asian sexual offenders scored higher on the Static-99 and RRASOR than European (White) sexual offenders and Forbes (2008) found that Blacks scored higher on the Static-99, RRASOR, and MnSOST-R, the current study found that Latinos scored lower on average on the Static-99 and RRASOR than White sexual offenders. Both Långström and Forbes discussed that the higher average scores on the measures for minority sexual offenders indicated that the measures overestimated risk of sexual recidivism. Although Latinos scored lower on average than Whites on the Static-99 and RRASOR in the current study, sampling issues may have confounded the data, resulting in an underestimation of risk for Latino sexual offenders. Thus, future research should try to replicate the findings of Långström and Forbes with incarcerated samples of racially diverse sexual offenders.

Looking further into the client information, some of the Latinos that were convicted of Rape in the Third Degree (ORS 163.355), had stated to police officers and/or clinic personnel that they was in a committed relationship with the victim, and in some cases, were planning on getting married with the parents’ of the victims approval. In most of these cases, the Latino offenders had been charged and later convicted of Rape in the Third Degree after high school staff informed police officers or Department of Human Services who then informed police of a pregnant teenager in their school. Although outside the reach of this study, further research
should be conducted on the impact of Latino cultural norms, specifically in terms of age of consent in sexual relationships, as it relates to sexual offense convictions in the United States.
References


Measure 11, Oregon Revised Statutes § 137 (1994).


Oregon Revised Statutes (1991), c.628 §1.

Oregon Revised Statutes (1999), c.163.


## Appendix A

### Static-99 Coding Form

<table>
<thead>
<tr>
<th>Number</th>
<th>Risk Factor</th>
<th>Codes</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Young</td>
<td>Aged 25 or older</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Aged 18 – 24.99</td>
<td>1</td>
</tr>
<tr>
<td>2</td>
<td>Ever Lived With</td>
<td>Ever lived with lover for at least two years?</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Yes</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>No</td>
<td>1</td>
</tr>
<tr>
<td>3</td>
<td>Index non-sexual violence - Any Convictions</td>
<td>No</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Yes</td>
<td>1</td>
</tr>
<tr>
<td>4</td>
<td>Prior non-sexual violence - Any Convictions</td>
<td>No</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Yes</td>
<td>1</td>
</tr>
<tr>
<td>5</td>
<td>Prior Sex Offenses</td>
<td>Charges</td>
<td>Convictions</td>
</tr>
<tr>
<td></td>
<td></td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1-2</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3-5</td>
<td>2-3</td>
</tr>
<tr>
<td></td>
<td></td>
<td>6+</td>
<td>4+</td>
</tr>
<tr>
<td>6</td>
<td>Prior sentencing dates (excluding index)</td>
<td>3 or less</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4 or more</td>
<td>1</td>
</tr>
<tr>
<td>7</td>
<td>Any convictions for non-contact sex offenses</td>
<td>No</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Yes</td>
<td>1</td>
</tr>
<tr>
<td>8</td>
<td>Any unrelated victims</td>
<td>No</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Yes</td>
<td>1</td>
</tr>
<tr>
<td>9</td>
<td>Any stranger victims</td>
<td>No</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Yes</td>
<td>1</td>
</tr>
<tr>
<td>10</td>
<td>Any male victims</td>
<td>No</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Yes</td>
<td>1</td>
</tr>
</tbody>
</table>

Add up scores from individual risk factors  

Total Score: ________

### TRANSLATING STATIC 99 SCORES INTO RISK CATEGORIES

<table>
<thead>
<tr>
<th>Score</th>
<th>Label for Risk Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>0,1</td>
<td>Low</td>
</tr>
<tr>
<td>2,3</td>
<td>Moderate-Low</td>
</tr>
<tr>
<td>4,5</td>
<td>Moderate-High</td>
</tr>
<tr>
<td>6 plus</td>
<td>High</td>
</tr>
</tbody>
</table>
### Appendix B

#### Rapid Risk Assessment for Sexual Offense Recidivism (RRASOR) Coding Form

<table>
<thead>
<tr>
<th>Number</th>
<th>Item Name</th>
<th>Prior Charges</th>
<th>Prior Convictions</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Prior Sex Offenses</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1 or 2</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3, 4, or 5</td>
<td>2 or 3</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td></td>
<td>6 or more</td>
<td>4 or more</td>
<td>3</td>
</tr>
<tr>
<td>2</td>
<td>Age at Release (Current Age)</td>
<td>Age</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>25 or older</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>18 to 24.99</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Victim Gender</td>
<td>Victim Gender</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Only female victim(s)</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Any male victim(s)</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Relationship to Victim</td>
<td>Relationship</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Only related victims</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Any unrelated victims</td>
<td>1</td>
<td></td>
</tr>
</tbody>
</table>

Total Score: ___