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# The Relationship Between Type of Attorney and Bail Amount Set for Hispanic Defendants

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This research empirically examines the difference that type of counsel, public or private, makes in the bail amount set for Hispanic defendants. Data were collected on all felony defendants assigned to the district court in a midwestern county. Specifically, the authors hypothesized that Hispanic defendants who retain the assistance of private counsel will receive lower bail amounts than defendants assigned a court-appointed attorney. Several independent controls were employed including the legal variables—*offense seriousness* and *prior arrests*—and the extralegal variables—*sex*, *age*, and *residency*. These data were analyzed using ordinary least squares multiple regression. The analyses show that although Hispanic defendants utilizing private counsel receive lower bail amounts than defendants assigned a court-appointed attorney, only the variables *age*, *residency*, and *offense seriousness* significantly affect bail amount set.

**Keywords:** *bail; ethnicity; judicial decision making; pretrial release; race*

Competent legal representation for all criminal proceedings is crucial for defendants facing the possibility of the loss of liberty. It can be argued that one of the reasons the “Founding Fathers” included the Sixth Amendment in the Bill of Rights is to address this issue. The Sixth Amendment holds that “In all criminal prosecutions, the accused shall enjoy the right to have the assistance of counsel for his defense.”

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The Sixth Amendment right to counsel ostensibly serves two distinct purposes. First, the right to counsel helps prevent the conviction of innocent people. This notion is premised on the recognition that the criminal justice system is a complicated process that is foreign to many lay citizens. Therefore, defendants need to have competent guidance through the legal maze to ensure that they are not wrongfully convicted.

A second purpose for the Sixth Amendment right to counsel is to serve as a safety net to ensure that the defendant's constitutionally protected rights are not infringed on; that is, it ensures that the various procedural rules are followed and protect the defendant's constitutional rights, including the right to privacy; suppression of the fruits of an illegal arrest, search, or seizure; and the right to remain silent in custodial interrogations and at trial (Klotter, Kanovitz, & Kanovitz, 1999). This is of paramount importance because a criminal defendant may be unaware of how constitutionally protected rights can be infringed on during the criminal court proceedings.

Historically, the Sixth Amendment right to assistance of counsel was viewed as applying only at trial (Klotter et al., 1999). However, the Supreme Court has correctly asserted that decisions at earlier crucial stages in judicial proceedings could substantially prejudice the rights of an accused at a later time in the criminal justice process. In response, the Court has handed down several key rulings (*Coleman v. Alabama*, 1970; *Gideon v. Wainwright*, 1963; *Powell v. Alabama*, 1932; *Strickland v. Washington*, 1984) to ensure that those accused of crimes are afforded the right to counsel during the many stages of the criminal justice process.

For the accused to receive the benefits of the constitutionally guaranteed right to counsel, the criminal justice system must afford the accused this right at critical stages of the legal proceedings. Through case law, the Supreme Court has determined that this right to counsel is not absolute in every phase of the criminal process. In fact, the Court has determined defendants are not constitutionally entitled to the assistance of counsel during (a) preindictment lineups, (b) booking procedures, (c) grand jury investigations, (d) appeals beyond the first review, (e) disciplinary proceedings in correctional institutions, and (f) postrelease revocation hearings (Senna & Siegal, 1996). Missing from this list is the bail hearing phase of criminal court proceedings. Consequently, bail, security provided to the court to ensure the appearance of the defendant at every subsequent stage of the criminal justice process (Senna & Siegal, 1996), is one of those critical stages wherein the Court has determined that the accused has a fundamental right to the assistance of counsel (*Coleman v. Alabama*, 1970). Regarding bail, the Eighth Amendment to the U.S. Constitution states that "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

The simple guarantee of counsel secured by the Sixth Amendment, however, may not provide equal justice. Those who can afford it are able to hire their own attorney; those who cannot must rely on a lawyer paid from public funds, either a court-appointed attorney or a public defender, depending on the jurisdiction. The question remains, does it matter whether one is defended by a privately hired or publicly paid lawyer? This article seeks a partial answer to that question in regard to the amount of bail set for felony defendants. More specifically, this research focuses on Hispanic defendants charged with felony offenses to determine if privately retained or court-appointed attorneys produce a more favorable bail outcome for Hispanic defendants. To answer this question, the following were explored: (a) the necessity for criminological research on Hispanics, (b) the importance of bail in criminal justice processing, (c) prior bail research, (d) right to counsel in criminal proceedings, (e) the type of attorneys that handle criminal cases, and (f) empirical analyses of bail decisions on Hispanic defendants in a midwestern jurisdiction.

## **The Necessity for Criminological Research on Hispanics**

It is a gross understatement that most of the criminological research examining racial differences in criminal justice processing has focused primarily on African Americans (Mann, 1993; Walker, Spohn, & DeLong, 2000). Although researchers have vigorously investigated the impact of criminal justice decision making on African Americans, other racial or ethnic groups, including American Indians (Nielsen, 1996), Asian Americans (Ho, 1998; National Minority Advisory Council on Criminal Justice 1982), and Hispanics (Mirande, 1987) have largely been neglected as a single unit of analysis. A rather common practice on the part of social scientists is to engage in the "racial lumping" (see, e.g., Espiritu, 1992; Turner & Johnson, 2005) of these groups (typically African Americans and Hispanics) into one category and refer to them as "minority" or "non-White." When this occurs, according to Walker et al. (2000), "we do not know, whether Hispanic Americans are treated worst, better, or about the same as African Americans" (p. 3).

Flowers (1990) contended that one reason for the scant research on Hispanics stems from the narrow sightedness of researchers who believe that essentially there are very few differences between Hispanics and African Americans because they are a "mirror image" of each other. If that is the case, it stands to reason that Hispanics are not deserving of individual attention when it comes to examining the impact of criminal justice processing. However, whether Hispanics simply "mirror" African Americans is an empirical question and should not be simply assumed. Indeed, research reported below suggests that this assumption is incorrect.

A compelling reason that it is critical to increase the research focus on Hispanics comes from the 2000 Census that revealed Hispanics to be the fastest-growing racial or ethnic group in the United States, surpassing African Americans as the largest minority group. The Hispanic proportion of the population had increased from 6.4% in 1980 to 12.5% in 2000 and is estimated to reach 24.3% by the year 2050 (U.S. Bureau of the Census, 2001). Given the growth of the Hispanic population, it is incumbent on researchers to more deliberately make the effort to examine how criminal justice decision making affects this group. Farnworth, Teske, and Thurman (1991) asserted over a decade ago that "the sheer number of Hispanics in our society and our courts suggests a need for researchers to extend their conceptualization of minority status to consider both ethnic and racial disparity during processing" (p. 55).

As alluded to earlier, much of the criminological research examining the treatment of Hispanics by the criminal justice system has analyzed them together with other groups, most often African Americans, under the heading "minorities." It has been documented that Hispanics and African Americans have had similar American experiences. For instance, both groups have experienced mistreatment and indifference by members of the dominant society, high rates of unemployment and poverty, low rates of education attainment and female-headed households, and overrepresented in essentially every criminal justice statistical category, from arrest to incarceration (Healey, 1995; Moore & Pinderhughes, 1993). Although it may be convenient to discuss these two groups as being monocultural, it is insensitive and inaccurate to do so as there are numerous unique historical and cultural differences between them.

## **Bail and Criminal Justice Processing**

It has been established that the pretrial stage of the criminal justice process is a very important point in criminal court proceedings. Perhaps no pretrial proceeding is more crucial than the decision regarding whether or not to grant the defendant bail. Within this context, numerous means for pretrial release for the defendant exist.

Although the cash bond system tends to dominate the way bail is administered, many other options are used by a number of states and the federal government. These alternatives include (a) release on recognizance, (b) property bond, (c) deposit bail, (d) conditional release, (e) third-party custody, (f) unsecured or signature bond, and (g) attorney affidavit (Schmallegger, 2001, pp. 308-311). However, the use of money bail became widespread as more

and more individuals were less known in the community and money was determined to be the most forceful mechanism to ensure appearance (Ozzane, Wilson, & Gedney, 1980).

Most criminal offenses are bailable; therefore, accused persons have the right to be released on reasonable bail to assist in their defense and lead an otherwise "normal" life while awaiting trial. Not all defendants, however, enjoy the benefits of the Eighth Amendment. Those unable to make bail can face substantial negative consequences. Thus, nothing may be more crucial than the decision regarding whether or not to grant the defendant bail and, if granted, the amount at which bail is set.

The bail decision has significance because ability to make bail affects whether a defendant is detained prior to trial. Defendants who cannot make bail are placed in detention while awaiting trial. This effectively hinders their ability to assist in their defense by limiting access to counsel and preventing them from locating evidence and witnesses (Inciardi, 1984). In addition, detained defendants may be stereotyped as dangerous (Katz & Spohn, 1995). This may affect the treatment of the defendant at trial. For example, research has shown that defendants who are detained prior to trial are more likely to be convicted than defendants who are not detained (Albonetti, 1991; Rankin, 1964). As well, it has been observed that convicted defendants who had been unable to make money bail tend to get longer prison sentences (Goldkamp, 1985; Rhodes, 1985). Thus, the amount at which bail is set has significant consequences and outcomes that can adversely affect the accused at later stages of the process.

If ethnicity and effective assistance of counsel are factors in these crucial decisions, it is paramount that the legal representation provided to Hispanic defendants is adequate to avoid differential treatment and possible harmful consequences in later stages of the criminal court process (Mann, 1993). Certainly, the relationship between ethnicity, legal representation, and bail decisions is worthy of research.

## **Prior Bail Research**

Although prior research has explored the effect of race and ethnicity on various aspects of criminal and juvenile justice processing, the bail decision has not received much attention. The fact that racial differences in bail decisions have not been the primary focus of researchers does not detract from its importance. As noted earlier, this decision may have serious consequences later in the process.

A search for literature on race and ethnicity in regard to bail suggests that few studies have investigated the assignment of bail (Albonetti, 1989; Frazier, Bock, & Henretta, 1980; Goldkamp & Gottfredson, 1979; Mann, 1993; Nagel, 1983; National Minority Advisory Council on Criminal Justice, 1980; Turner & Johnson, 2005; Turner, Secret & Johnson, 2003). Free (2002) examined the literature investigating pretrial release, a decision that may be affected by the bail decision, observed that non-Whites were less likely than Whites to receive bail amounts below the guidelines. Moreover, Free found in several of the reviewed studies that African Americans and Hispanics were required more often than Whites to post cash or surety bonds. Previously Bynum (1982) examined judges' decision to grant the defendant release without monetary bail. In particular, Bynum concluded that African Americans and American Indians are less likely than are Whites to be released on their own recognizance. Furthermore, regarding pretrial release, some research has found disparate treatment by race, with non-Whites (which includes non-White Hispanics and African Americans) faring worse than Whites (Albonetti, 1989; Katz & Spohn, 1995; Patterson & Lynch, 1991; Petee, 1994; Reeves & Perez, 1994).

Although there is a scarcity of research focusing on Hispanics and bail, there is some recent scholarship. For instance, Demuth and Steffensmeier (2004) included in their analyses 75 of the most populous counties in the United States and found that Hispanic and African American males were less likely than Whites males to be granted pretrial release. In fact, the researchers found that Hispanics received the least favorable pretrial decisions.

Ayres and Waldfogel (1994), analyzing data from Connecticut, concluded that courts systematically set bail for Hispanic male and female defendants at unjustifiably high amounts. They further observed that, after controlling for the severity of the alleged offense, bail amounts set for Hispanic male defendants were 19% higher than those set for their White male counterparts, but lower than those set for African American males. In drug cases, the study found that in several Connecticut cities the average bond for Hispanics and African Americans was 4 times higher than the bond for Whites. For women with no prior record, the average bond for Hispanics was 197% higher than for White women. Essentially, judges were punishing Hispanics and African Americans who had not been convicted of a crime, an unintended consequence of bail and defendants, exercise of their Eighth Amendment rights. Finally, Turner and Johnson (2005) found in their analyses that bail amounts given to Hispanics are excessive when compared to similarly situated White and African American defendants.

In sum, a review of the limited literature concludes that Hispanics are treated differently in bail decisions; that is, Hispanics are likely to have higher bail amounts assigned to them. Is this practice related to the type of attorney representing this group or some other reason/s? The next section of this article discusses the literature regarding defendants' use of legal counsel.

## **Right to Counsel in Criminal Proceedings**

### **Private Versus Public Defender**

Because the literature on the bail decision is rare, literature focusing specifically on the effectiveness of legal representation in relation to bail amounts is even rarer. To date, few studies have been published. However, a majority of these few studies on type of attorney and bail suggest that defendants fare better when utilizing the services of a privately retained attorney. An early study of murder charges over two decades found that privately retained attorneys are more successful than court-appointed attorneys in securing bail for their clients, even when controlling for legal factors such as defendant's prior record (Swigert & Farrell, 1991). Moreover, other researchers have found that bail status and representation by a court-appointed attorney led to a greater probability of receiving a prison sentence even when severity of offense and prior record were controlled (Clarke & Koch, 1976). In addition, some researchers found that defendants who used private attorneys were also more likely to be released prior to trial (Holmes, Hosch, Daudistel, Perez, & Graves, 1996; Turner & Johnson, 2003).

The small amount of research focusing specifically on bail and types of attorney is alarming. As outlined above, this decision point is of great significance as it can have monumental adverse effects on the defendant at subsequent stages of the criminal justice process. Accordingly, the current study is a response to the need for additional research on the relationship between ethnicity, type of attorney, and the amount of bail set by the judge.

In sum, the few studies examining the effectiveness of assistance of counsel in relation to bail suggest that there is a difference in effectiveness between a privately retained attorney and a court-appointed attorney; that is, in connection with bail, defendants fare better when utilizing the services of a privately retained attorney.



## Current Study

The current study extends the literature on ethnicity and bail setting by determining if the judicial decision of the amount of bail set is independently affected by the ethnicity of the defendant. Moreover, this current research adds to the literature by investigating how critical judicial decisions affect a rarely studied group: Hispanics, the largest single minority group in the United States. This is valuable because, as indicated above, most of the research focusing on minorities and criminal justice processing that includes Hispanics in the data lumps them together with other racial and ethnic groups, effectively hiding any differences that might arise between Hispanics, Whites, and other minorities. Research on Hispanics as a single ethnic category will contribute to our understanding and increase our knowledge on the effect of ethnicity on bail decisions. It is against this backdrop that this article seeks to add to our knowledge regarding the difference type of attorney makes on bail amount. Specifically, it examines the following hypothesis:

*Hypothesis 1:* After controlling for the effect of several available legal and extralegal factors, Hispanic defendants who retain the assistance of private counsel will receive lower bail amounts than defendants assigned a court appointed attorney.

## Method

### Data

The data for the current study comes from the Nebraska District Court files of Lancaster County, Nebraska, which includes Lincoln, the state capital and second largest city in Nebraska. On receiving approval from the University of Nebraska Institutional Review Board (IRB), we viewed the Court's data files on persons processed by the District Court in 1996 that were available for public access. The data set contains information on all persons accused of felony offenses who were eligible for bail in 1996, excluding defendants with nonbailable offenses ( $N = 921$ ). The official court record, filed by the Clerk of the Court, indicates the defendant's racial and/or ethnic self-identification as either White, Black, Hispanic, Asian, and Native American. In those rare occasions where the defendant's race or ethnicity was left blank, we assigned the defendant to the Other category. Rodriguez and Cordero-Guzman (1992) reported that social scientists generally view self-identification as the preferred method for determining racial or ethnic

**Table 1**  
**Sample Means and Percentages**

Variables	<i>M</i>	<i>SD</i>	<i>n</i>	%
Dependent variable				
Bail amount set	24404.55	32610.96	55	
Independent variables				
Age	27.84	8.39	55	
Prior arrests	4.78	3.65	55	
Felony			55	
Type 4 (least serious)			20	36.4
Type 3			16	29.1
Type 2			14	25.5
Type 1 (most serious)			5	9.1
Sex			55	
Female			4	7.3
Male			51	92.7
Counsel			55	
Private			21	38.2
Public			34	61.8
Jurisdiction			55	
Lancaster County			39	70.9
Nebraska (not Lancaster County)			3	5.5
Other state			7	12.7
Transient			6	10.9

classification. Hence, numerically, the sample included 560 Whites, 233 African Americans, 55 Hispanics, 33 Asians, 24 Native Americans, and 16 Other. For purposes of the current research, only the subsample of Hispanics ( $n = 55$ ) was utilized. Only those cases for which information on all relevant variables was available are included in the analyses. Table 1 presents summary statistics on the variables used in the analyses.

## Measures

*Dependent variable.* The dependent variable is the dollar amount of bail set by the judge to insure the appearance of the accused at trial. This continuous variable ranges from US\$1,000 to \$150,000 for these defendants and averages \$24,404.

*Extralegal independent variables.* The major extralegal independent variable, and the major test variable of this research, is type of attorney

(*private* = 0, *public* = 1).<sup>1</sup> Almost 62% of these defendants were represented by public defenders. The other extralegal variables are age (a continuous variable), sex (*female* = 0, *male* = 1), and place of residence. Place of residence is a dummy variable consisting of four elements: those living in Lancaster County; those living in Nebraska, but not Lancaster County; those with an address in a state other than Nebraska; and transients, those with no address.

*Legal independent variables.* Two legal variables are controlled: offense seriousness and prior record. Previous research has demonstrated that seriousness of the offense and prior record are important predictors of outcomes at various stages of the criminal justice system, specifically, judges' bail decisions (Albonetti, 1989; Frazier et al., 1980; Goldkamp & Gottfredson, 1979; Nagel, 1983). Offense seriousness is treated as a dummy variable based on a 4-point index of seriousness of the felony (Type 4 = *least serious*, Type 1 = *most serious*) as defined in Nebraska statutes (Revised Statutes of Nebraska, 1995).<sup>2</sup> Prior criminal record is a continuous variable measured by the total number of felony and misdemeanor arrests preceding the instant offense.

The extralegal variables we control for are consistent with prior research: sex (Crew, 1991; Goldkamp & Gottfredson, 1979; Katz & Spohn, 1995; Nagel, 1983), age (Bynum & Paternoster, 1994), and area of residence (Freed & Wald, 1964; Ozanne et al., 1980; Patterson & Lynch, 1991; Turner et al., 2003; Turner & Johnson, 2003, 2005). Of these, residency is less commonly employed. We control for it because one might expect judges to see nonresidents as having a greater risk of nonappearance than those with ties to the community. Indeed, in the research cited above, the residency of defendants was found to affect bail decisions.

## Statistical Methods

The analysis proceeds in two steps. A *t* test is used to ascertain if there is a statistically significant difference in mean bail amount set for Hispanic defendants relating to whether the counsel for the accused is a public defender or is privately retained. The second stage of analysis uses multiple regressions to assess the independent effect of type of counsel on bail amounts after controlling for the combined effects of the five independent variables available for the current study. To estimate the amount of variance explained, we employ the  $R^2$  derived from the regression equation analysis.

Before computing the ordinary least squares (OLS) regressions, the independent variables were checked for multicollinearity using "tolerance,"

the percentage of variance of a variable that is not shared with other independent variables in the model (Hamilton, 1992, p. 133). Higher levels of tolerance indicate less multicollinearity. Hamilton (1992, p. 134) implied that tolerance values as low as .60 are acceptable. Only one variable, Felony 1, has a tolerance below .60 (.58 to be specific); tolerances for the others range from .638 to .933.

## Results

### Bivariate Analysis

A *t* test was used to determine if Hispanic defendants represented by public defenders were given bail amounts significantly different than the amount given to those represented by private counsel. The average bail set for the 21 defendants who used private counsel was \$30,352, higher (by \$9,622) than the average bail (\$20,730) set for those 34 defendants who were represented by public defenders. This difference, however, was within sampling error ( $t = 1.064$ ,  $df = 53$ ,  $p = .29$ ).

### Multivariate Analysis

The second level of analysis is an additive OLS regression that controls for variables that might cause a difference in outcome for the two groups (see Table 2). For example, if seriousness of offense affects bail amounts, and those accused of more serious offenses are more likely to use one type of attorney than the other, differences shown in the *t* test may actually be the result of offense seriousness rather than type of counsel. In this model, for the dummy variable of residence, Lancaster County residence is the comparison variable, and Type 4 felony (the least serious offenses) is the omitted category for the seriousness of offense dummy variable.

The model for these Hispanic defendants explains 39.8% of the variation in the amount set for their bails. However, as can be seen, though those represented by a public defender do receive higher bail amounts on average ( $b = \$7830.98$ ), type of attorney does not significantly explain bail amounts when other variables are controlled ( $p = .388$ ).

Rather than type of counsel, it is age, offense seriousness, and residence that significantly affect these bails. Those charged with the most serious crimes (Felony 1) receive bail amounts on average \$34,304.23 more than those charged with the least serious offenses ( $p = .053$ ). Each year of age

**Table 2**  
**Ordinary Least Squares Regression of Bail Amounts for  
 Hispanic Defendants**

	Unstandardized Coefficients	Significance	Tolerance
(Constant)	-1773.891	.941	
Age	1173.811	.021	.860
Sex (1 = <i>Male</i> )	-21428.465	.185	.835
Prior arrests	540.386	.654	.765
Felony 3	-13920.986	.170	.696
Felony 2	13658.900	.192	.709
Felony 1	34304.228	.053	.580
Nebraska	-20133.561	.337	.644
Other state	38109.057	.010	.638
Transient	-3197.639	.800	.933
Type of counsel			
(1 = <i>Public Defender</i> )	7830.981	.388	.749
	$R^2 = .398$		

adds \$1,173.81 to the average bail. Finally, the average bail set for those from states other than Nebraska is \$38,109.06 higher than those given to defendants who reside in Lancaster County ( $p = .010$ ); defendants residing in other residence categories were not significantly different in their bail amounts.

## Discussion

In a study completed by Harlow (2000), the researcher reported that minority inmates were more likely than Whites to have appointed counsel. Specifically, the study observed that though 69% of White inmates reported they had lawyers appointed by the court, 77% of Blacks and 73% of Hispanics had public defenders or assigned counsel (Harlow, 2000). This analysis shows that there is a difference in bail amount set for Hispanic defendants based on the type of legal counsel employed, privately retained or public defender. In the bivariate analysis, the results showed that the average bail set for those with private counsel was actually higher by \$9,622.00 than the average bail amount set for those represented by public defenders.

In the second stage of our analysis we employed an additive OLS regression controlling for several variables (age, sex, residence, offense, and prior arrests). With these variables controlled, Hispanic defendants utilizing the services of a public defender received higher bail amount (\$7830.98) as predicted. However, in the bivariate and multivariate analyses, type of attorney failed to reach statistical significance. The lack of significance finding could be because of the small sample size. In light of the small sample size and lack of statistical significance, it is plausible that, in fact, type of counsel makes no real difference when other variables are controlled, and that judges are not biased against Hispanic defendants using public defenders.

The OLS regression found that other variables, specially *age*, *residence*, and *offense seriousness*, did achieve statistical significance. Why the variables *age*, *residence*, and *offense seriousness* are significant is an interesting question. With respect to the age variable, the analysis suggests that as defendants get 1 year older they on average pay \$1,173.81. Is it plausible that judges consider age, albeit an extralegal variable, important in the setting of bail (Bynum & Paternoster, 1994)? The rarely employed variable *residence* is worthy of comment. As alluded to earlier, judges may consider defendants living beyond the court's jurisdiction, particularly outside the state, a greater flight risk and therefore set higher bail amounts for this group. The belief by some judges that Hispanics present a greater flight risk has been examined by other researchers. For instance, Reaves and Perez (1994) investigated pretrial release and found failure-to-appear rates to be higher for Hispanics. Specifically, the researchers found the failure to appear rates to be 21% for White defendants, 27% for Black defendants, and 30% for Hispanic defendants. Therefore, judges set higher bail amounts for Hispanic defendants compared to other defendants. In the current research, this assumption has support as Hispanic defendants residing in states other than Nebraska, on average, have bail amount set \$38,109.06 higher than Lancaster residents.

The final statistical significant variable, *offense seriousness*, according to Cohen and Klugel (1978, p. 149) and Liska and Tausig (1979, p. 200) is a "legal characteristic" and refers to offense-related attributes of the accused that have an official legal status in decision making. It is generally accepted that all else being equal, legal characteristics should have a causal connection to criminal justice outcome such as the bail decision. The analysis revealed that Hispanic defendants charged with the most serious crimes (Felony 1) received bail amounts that were on average \$34,304.23 more than those charged with the least serious offenses.

As the Hispanic population continues to grow in Nebraska and elsewhere criminal justice experts and policy makers should be concerned about what will happen to the largest "minority" group as they increasingly become clients of the criminal justice system. The Census Bureau as alluded to earlier has predicted that Hispanics will be the largest minority group in the United States. It is plausible to believe that some members of this group will come into contact with the criminal justice system. It behooves officials associated with the criminal justice system to prepare for this eventuality.

It is hoped that the current study will generate interest among other researchers to conduct future research focusing on Hispanics as clients in the criminal justice system. Any future inquiries into differences in bail amount set for Hispanics defendants should utilize larger contemporary data sets. Nebraska's Hispanic population has increased such that there undoubtedly is a larger sample of Hispanic defendants in Lancaster County. Moreover, the inclusion of additional jurisdictions with varying proportions of Hispanic residents is strongly encouraged. Future researchers should also add to the control variables information concerning the defendant's demeanor, an assessment (albeit subjective) that is pertinent to the bail decision (Petee, 1994). Despite these limitations we feel that the current study does add to the limited knowledge concerning Hispanics and criminal justice processing in general, and in particular the difference type of attorney makes on the judicial decision bail amount set for Hispanic defendants.

## Notes

1. Lancaster County utilizes the public defender system for representation of indigent defendants.

2. Nebraska felony classifications and concomitant punishments for each: Class I: death; Class IA: Life imprisonment; Class IB: maximum - life imprisonment, minimum - 20 years imprisonment; Class IC: maximum - 50 years imprisonment, mandatory minimum - 5 years imprisonment; Class ID: maximum - 50 years imprisonment, mandatory minimum - 3 years imprisonment; Class II: maximum - 50 years imprisonment, minimum - 1 year imprisonment; Class III: maximum - 20 years imprisonment, or US\$25,000 fine, or both, minimum - none; Class IV: maximum - 5 years imprisonment, or \$1,000 fine, or both, minimum - none (Revised Statutes of Nebraska Annotated, 1995).

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