# Gendered Outcomes in Prostitution Arrests in Houston, Texas

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## Abstract

This study analyzes the law enforcement response to prostitution in Houston, Texas, between 1977 and 2010 to examine whether the traditional approach to policing prostitution disproportionately penalizes women. Data included the disposition and sentencing information for 22,916 first-time prostitution arrests in Harris County. Using bivariate and multivariate analyses, we explored gender differences in the likelihood of receiving punishment, the type(s) of punishment received, and the amount of punishment for first-time prostitution offenses. We find that women were disproportionately arrested for prostitution and that women were more likely to receive a jail sentence for involvement in prostitution than men were. In contrast, male arrestees for prostitution were more likely to receive probation sentences and/or fines. This study adds to a robust body of literature suggesting that gender impacts sentencing in the criminal justice system. Yet, it is unclear whether the role of the arrestee—as either a buyer or seller—moderates the effect of gender. This quandary demonstrates the need for more comprehensive data collection about the role of the arrestee in the commercial sexual exchange.

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Prostitution is a multibillion dollar industry that involves thousands of women, men, and children in the United States. While it is difficult to systematically measure the size of the commercial sex economy in the United States, a recent study of the underground commercial sex economy in eight American cities estimated that profits in these cities ranged from US$39.9 to US$290 million in 2007 in these cities (Dank et al., 2014). Although prostitution is commonly understood as a public-order and victimless crime, and is not often a top priority for enforcement by police agencies, researchers and practitioners increasingly view prostitution as a system causing harm to communities that is often linked to commercial sexual exploitation and human trafficking (Farrell & Fahy, 2016). As the legal definition and social understanding of prostitution evolves, law enforcement interest in policing prostitution is increasing (Farrell, McDevitt, & Fahy, 2010).

The potential harms of prostitution to individuals directly involved have been well-documented. For individuals, there is a clear association of prostitution with increased risk for sexually transmitted infections and disease (Fournet et al., 2016; Waugh, 1989), as well as associations with depression, homelessness, and drug abuse (Kaestle, 2012). In addition, individuals involved in commercial sex also report regular exposure to violence (Salfati, James, & Ferguson, 2008). For communities, public health concerns include the transmission of sexually transmitted diseases and the exposure of the community to used condoms and bodily fluids that are not properly disposed of. The community shares in public health and economic concerns like transmission of sexually transmitted diseases, loss of business if prostitution occurs in the vicinity, and decreases in property values and limits in property use (Scott, 2001). Prostitution may erode quality of life and contribute to neighborhood decay and disorder (Weitzer, 1999) by drawing strangers to neighborhoods, bringing the potential for violent or fraudulent interactions between sex sellers and buyers, and increasing the risk that pimps or traffickers may harm sellers of sex in their neighborhoods (Satz, 1995; Scott & Dedel, 2006).

Prostitution also places a burden on law enforcement and other public services. The enforcement of prostitution legislation can place an economic burden on local jurisdictions. It has been estimated that in Chicago, each prostitution-related arrest in 2001 cost US$1,554, with total costs that year exceeding US$9 million (Roe-Sepowitz, Hickle, Loubert, & Egan, 2011). The dearth of follow-up care for those arrested is problematic, as the most frequent outcome for a person arrested for commercial sex is a brief arrest period followed by short-term punishment and no provision of service (Shively, Klirorys, Wheeler, & Hunt, 2012). This results in a large number of

recidivist sellers of sex, whose underlying needs are not met by the traditional law enforcement response.

This study quantifies the impact of gender on sentencing for those arrested for prostitution. The analysis relies on the Center for Science and Law's *Criminal Records Database* (CRD), which consists of police arrest and court disposition records between January 1977 and December 2010 (Ormachea, Haarsma, Davenport, & Eagleman, 2015). For first-time prostitution arrests—a section of the Texas Penal Code that applies equally to buyers and sellers—we quantify gender disparities in arrests and sentences over time. In particular, for first-time prostitution arrestees, we explore gender differences in likelihood of receiving punishment, punishment type, and sentence severity, as measured by probation length, jail sentence length, and/or fine amount.

## Legal History of Prostitution in Harris County, Texas

The section of the Texas Penal Code that deals with prostitution has undergone major revision over the last 50 years, particularly in terms of abandoning a gendered approach to prostitution. The 1952 penal code is replete with references to prostitutes as "her" or "woman" visited by "male persons." Remarkably, judges protected male patrons by holding that the code "was not intended to make a vagrant of one who merely visited [a prostitute] occasionally at her rooms." (*Ellis v. State*, 1954; *Lingenfelter v. State*, 1914). In a comprehensive 1973 revision, pronouns were not only defined as explicitly gender-neutral but also understood to target the prostitute "as well as the . . . patron" (Keeton & Searcy, 1970). Therefore, men, women, patrons, and providers have all been subject to prosecution for prostitution under the same exact statute from 1973 to the present.

Other changes stem from no longer criminalizing prostitution under vagrancy codes. Before 1973, the code targeted "conduct rather than status or location" (Keeton & Searcy, 1970). This includes behavior that would be unlikely to qualify as a crime today. For instance, simply loitering around houses of prostitution was sufficient to charge males with vagrancy. Similarly, the pre-1973 code distinguished between "common prostitutes" and other prostitutes, holding that "[a] woman may be a prostitute, and yet have illicit connection with but one man; but to be a common prostitute, her lewdness must be more general and indiscriminate" (*Springer v. State*, 1914).

Today's code is nearly identical to the one from 1973. It states that a person commits the offense of prostitution if he "knowingly (1) offers to engage, agrees to engage, or engages in sexual conduct for a fee; or (2) solicits

another in a public place to engage with him in sexual conduct for hire" (Prostitution, 1973). Critical for our analysis, this is explicitly understood to include buyers as well as sellers because "an offense is established . . . whether the actor solicits a person to hire him or offers to hire the person solicited" (Prostitution, 1973).

## Gendered Differences in Responses to Prostitution

Prostitution is a market-based system driven by the intersecting forces of supply and demand (Aronowitz & Koning, 2014). There are three major parties involved in the market for commercial sex. The first group is the consumers, or "buyers," who create a demand for commercial sex. Second, there are those who provide commercial sex. In this article, we will use the term "sellers" to refer to this group. Finally, in some cases, there are facilitators or traffickers who provide the supply to buyers.

Policing prostitution is not often a top priority for law enforcement agencies, with many agencies preferring to focus on what are considered more serious offenses (Cameron & Collins, 2003), particularly when resources for law enforcement are more limited. Yet, when police do attempt to respond to the problem of prostitution, historically, the law enforcement approach to addressing the problem of prostitution has been to focus almost exclusively on individual women who sell sex (Dodge, Starr-Gimeno, & Williams, 2005; Monroe, 2005). This is true despite increased recognition that males, transgender individuals, and those representing other gender identities are also involved in selling sex (Smith & Laing, 2012). It is important to note that while transgender sellers of sex have been recognized in smaller studies, often qualitative in nature (see, for example, Bailey-Kloch, Shdaimah, & Osteen, 2015), law enforcement agency statistics typically do not have a non-binary gender classification option; therefore, transgender individuals may be misclassified as either male or female in official law enforcement data.

While there are some empirical studies of male sex workers in the United States, which first emerged in the 1940s, male sex workers continue to receive considerably less attention than their female counterparts (Bimbi, 2007). Despite a growing body of research on males involved in selling sex, men are often conceptualized only in the role of buyers (Crofts, 2014).

Aggregate law enforcement data consistently show a gender divide in which significantly more women are arrested for prostitution-related activity than men (McKim & Bottari, 2014; Snyder, 2012). This pattern generally reveals that the traditional response of law enforcement to the problem of prostitution is to focus on arresting female sellers of sex. Prior analyses reveal

that the most common pattern of punishment for prostitution involves jailing or fining the seller and issuing the buyer a citation (Persons, 1996).

Not only are buyers of sex, most often male, punished less severely than sellers, they are apprehended by law enforcement far less frequently. Although there are laws criminalizing prostitution in all 50 states, laws criminalizing the supply of sex are the most frequently enforced, while those criminalizing the demand for sex are the least enforced (Jenness, 1990; Monroe, 2005). Decreased law enforcement attention to sex buyers results in decreased deterrence of potential buyers. Research by economists Cameron and Collins (2003) finds that the sporadic, episodic enforcement of sex buying results in a negligible, almost zero expected probability of detection for buyers. Yet, this same study concluded that that male sex buyers are very responsive to risk and situational factors (such as the risk of contracting a sexually transmitted disease or the risk of their behavior becoming known to a spouse or other family member), therefore, they would be likely to change their behaviors if they were more often the targets of prostitution prevention and enforcement efforts by police (Cameron & Collins, 2003).

There are important social ramifications of a law enforcement focus on sellers of sex rather than buyers. Most practically, a focus on sellers has resulted in documented patterns of revolving door arrests for individuals charged with prostitution. Importantly, with each arrest, a seller's opportunities for legal and legitimate employment decrease, contributing further to the revolving door problem (Leon & Shdaimah, 2012). Next, repeated media attention to prostitution enforcement activities focusing on the sellers of sex rather than buyers reinforces the social message that selling sex is more harmful and shameful than buying sex. There is a prevailing social attitude that buyers, often colloquially referred to as "johns," are otherwise law-abiding citizens who also happen to buy sex. Until recently, it was commonly accepted that men who buy sex are doing what is "natural" (Sanders, 2012). Such social norms purporting that "boys will be boys" may in turn influence law enforcement to focus more heavily on sex sellers rather than buyers. Research finds that when it comes to prostitution enforcement, law enforcement responds in part to community will (Farrell & Pfeffer, 2014).

Just as the law enforcement approach to curbing prostitution has focused on the sellers of sex, most of the research conducted on prostitution during the past several decades has also focused almost exclusively on women who sell sex (Almodovar, 1999), and even more specifically on woman who sell sex outdoors at the street level, as opposed to indoor venues such as massage parlors, cantinas, strip clubs, residential brothels, or hotels (Weitzer, 1999). Buyers of sex have received considerably less attention in research and public discourse about reducing prostitution in American communities (Durchslag

& Goswami, 2008). In fact, a review conducted in 1991 estimated that less than 1% of all studies on prostitution to date had focused on buyers (Perkins, 1991), despite the fact that, by definition, commercial sex interactions involve both a buyer and a seller. Excluding buyers from research on commercial sex is detrimental to our understanding of the phenomenon of prostitution as well as to the wider sociological understandings of sexuality and gender relations (Sanders, 2012).

## Gender Disparities in Sentencing

There is a robust body of literature documenting gender disparities throughout the criminal justice system. It has been noted that gender bias can happen before an individual even makes contact with the criminal justice system, as police officers may demonstrate gender bias in the course of their regular discretion on the job. Previous research finds that due to male dominance in policing, sexist attitudes seem to infiltrate police culture (Dellinger, 2008; Lila, Gracia, & Garcia, 2013). Expectations about gender and gender roles may impact the way police officers perceive those they interact with in the course of their normal policing duties.

Glick and Fiske's (1996) theory of ambivalent sexism contends that sexism toward women is more complex than the typical conceptualization of hostility toward women. Instead, theorists Glick and Fiske (1996) argue that sexism is a multidimensional construct that, in addition to the traditionally understood form of hostile sexism, also includes benevolent sexist attitudes. The authors define benevolent sexism as follows:

> A set of interrelated attitudes toward women that are sexist in terms of viewing women stereotypically and in restricted roles but that are subjectively positive in feeling tone (for the perceiver) and also tend to elicit behaviors typically categorized as prosocial (e.g., helping) or intimacy seeking (e.g. self-disclosure). (p. 491)

Multiple studies have examined the impact of ambivalent sexism on police officer judgment and decision making (see, for example, Lila et al., 2013; Page, 2008) and on perceptions of blameworthiness more generally (i.e., Herzog & Oreg, 2008).

From the point of initial contact with law enforcement, gender disparities have been demonstrated at nearly every stage of the criminal justice system, from arrest (Visher, 1983) to pretrial processing (Pinchevsky & Steiner, 2013), to pretrial release (Ball & Bostaph, 2009), to sentencing (U.S. Sentencing Commission, 2010). However, as Mallicoat (2015) notes, though

gender disparities have been documented at various stages of the criminal justice process, most of these studies offer a snapshot of a single phase, and it is difficult for such studies to take into account the ways in which bias at an earlier phase of the criminal justice system is impacting the disparities during the phase that is at the focus of the study.

Generally, it has been hypothesized that gender bias can occur in one of two ways. Some, such as pioneering scholar Pollack (1950), assert that there are situations in which women may receive more lenient treatment in the criminal justice system as a result of their gender. This theory, known colloquially as the chivalry hypothesis, is supported by a great deal of research documenting chivalrous practices toward women in many circumstances (Mallicoat, 2015). Yet, on the opposite end of the spectrum, it is also argued that there are circumstances under which women may receive harsher treatment because of their gender, particularly when they are perceived as breaking gendered social norms (Nagel & Hagen, 1983). When it comes into the crime of prostitution, female sellers of sex have historically been targeted by police more often than their male counterparts and have been more severely prosecuted (Monroe, 2005). The current study investigates the sentencing of men and women arrested for first-time prostitution offenses in Harris County, Texas, over a span of 23 years.

## Current Study

In this study, we examine the gender differences in those arrested for first-time Misdemeanor B[1] prostitution offenses in Harris County, Texas, a geographic region mostly subsumed by the city of Houston, between the years of 1977 and 2010. We first examine patterns in the number and demographics of individuals arrested for prostitution in Harris County. Next, we examine whether sanctions for Misdemeanor B prostitution offenses vary by gender. Finally, we investigate whether there are gendered differences in the severity of punishment, as measured by a sentence involving multiple stacked sanctions.

The offense code for prostitution does not distinguish between buyers and sellers, making it impossible to conduct these analyses on disparate punishment outcomes based on buyers versus sellers. Therefore, in this analysis, we do not assume that all women in this dataset arrested for prostitution were sellers of sex, nor that all males arrested were buyers. We acknowledge that some women arrested for prostitution may be buyers, though this is rare (see, for example, Pitts, Smith, Grierson, O'Brien, & Misson, 2004). Likewise, we acknowledge that some male arrestees in our sample were likely sellers of sex.

## Data and Methods

### *Data and Measures*

Data for this study come from the Center for Science and Law's *Criminal Records Database*, a dataset containing information from more than 29 million records of adult arrests and related court dispositions from multiple U.S. jurisdictions that took place between January 1977 and December 2010. The current analysis relies on the 2.9 million arrests from Harris County, Texas, the fourth largest county in the United States and the seat of the city of Houston.

Between 1977 and 2010, there were 64,488 total arrests for prostitution in Harris County. Of these, 11,208 represented higher level (e.g., Misdemeanor A) offenses. These higher level offenses require either a prior conviction or more involvement in the industry than as a simple buyer or seller (e.g., as a "facilitator"). These requirements would affect sentencing, and so the higher level offenses were excluded from this analysis. Of the remaining 53,240 offenses, we also excluded cases involving individuals with multiple arrests for Misdemeanor B prostitution, as we reasoned that an extensive arrest history could potentially lead to differential treatment by prosecutors. As this analysis is centered around gender differences in sentencing outcomes, cases with missing gender information ($n = 1,073$) were also excluded. Thus, our final dataset consists of arrest, disposition, and sentencing information for 22,916 one-time Misdemeanor B prostitution arrestees in Harris County between 1977 and 2010.

Table 1 presents the descriptive characteristics of this sample. The sample is comprised of males and females ranging in age from 12 to 87 years old. The sample is 55% female ($n = 12,615$) and 45% male ($n = 10,301$). The average age of all arrestees was 31.61 ($SD = 9.96$), though female arrestees ($M = 30.38$, $SD = 9.2$) were younger, on average, than male arrestees ($M = 33.22$, $SD = 10.65$). Overall, 42% of those arrested for these prostitution offenses were White, 31% were Black, and 27% identified as another race. Fifteen percent of arrestees were Hispanic, though more men were Hispanic (21%, $n = 2,149$) than women (10%, $n = 1,317$).

### *Outcome Measures*

*Likelihood of punishment.* The CRD provides sentencing data in terms of probation length, jail sentence length, and fine amount. We converted those numeric variables to three binary dummy variables, where 0 indicates no jail, fine, or probation punishment and 1 indicates a sentence in any amount in

**Table 1.** Sample Characteristics.

| Variable | Overall (N = 22,916) | | Male (n = 10,301) | | Female (n = 12,615) | |
|---|---|---|---|---|---|---|
| | % | N | % | n | % | n |
| Race | | | | | | |
| White | 42 | 9,622 | 46 | 4,771 | 38 | 4,851 |
| Black | 31 | 7,114 | 26 | 2,633 | 36 | 4,481 |
| Other | 27 | 6,180 | 28 | 2,897 | 26 | 3,283 |
| Ethnicity | | | | | | |
| Non-Hispanic | 85 | 19,440 | 79 | 8,142 | 90 | 11,298 |
| Hispanic | 15 | 3,476 | 21 | 2,159 | 10 | 1,317 |
| Age | | | | | | |
| <18 | 1 | 193 | 1 | 58 | 1 | 135 |
| 18-21 | 11 | 2,549 | 8 | 850 | 13 | 1,699 |
| 22-29 | 24 | 5,546 | 22 | 2,254 | 26 | 3,292 |
| 30-39 | 23 | 5,259 | 24 | 2,423 | 22 | 2,836 |
| 40-49 | 12 | 2,752 | 12 | 1,269 | 12 | 1,483 |
| 50-59 | 3 | 761 | 5 | 476 | 2 | 285 |
| 60+ | 1 | 166 | 1 | 146 | 0 | 20 |
| Unavailable | 25 | 5,690 | 27 | 2,825 | 23 | 2,865 |

each of the three categories. The use of each type of sanction changed significantly over time. Figures 1 to 3 illustrate the percentage of prostitution offenders receiving each sanction type, by gender.

*Severity of punishment.* Probation length, jail sentence length, and the fine amount are each numeric variables. In addition, we quantified the likelihood of receiving multiple types of sanctions in a single sentence for Misdemeanor B–level prostitution offenses by creating a new count variable of the total number of sanctions received, ranging from 0 to 3.

## Independent Variables

*Gender.* This analysis includes four independent variables drawn from the arrestee demographic characteristics: gender, race, ethnicity, and age. Arrestee gender is a dichotomous variable where "male" is coded 0 ($n$ = 10,301, 45%) and "female" is coded 1 ($n$ = 12,615, 55%). We acknowledge that gender is nonbinary (see, for example, Butler, 1990; Monro, 2005) and that people of multiple gender identities are involved in the commercial sex
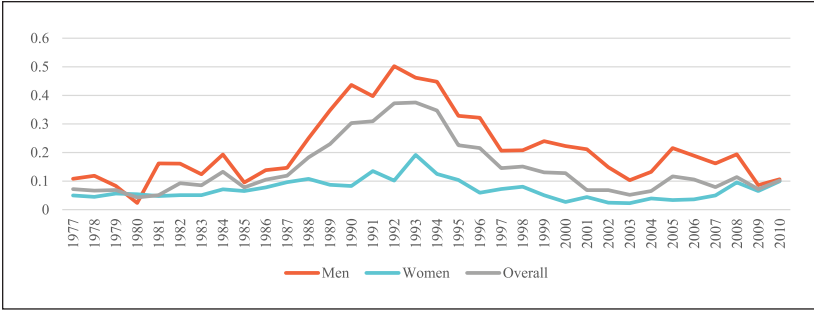
**Figure 1.** Percentage of arrestees who received probation, by gender.
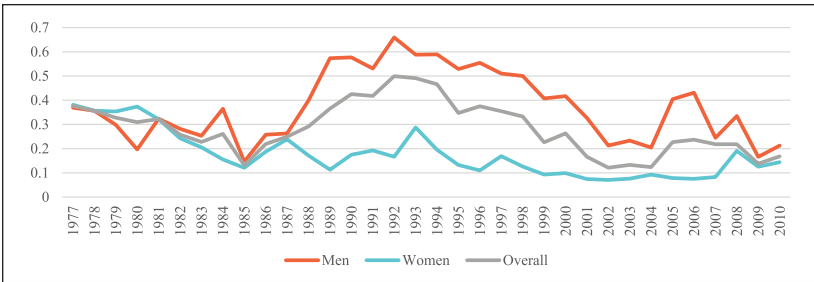


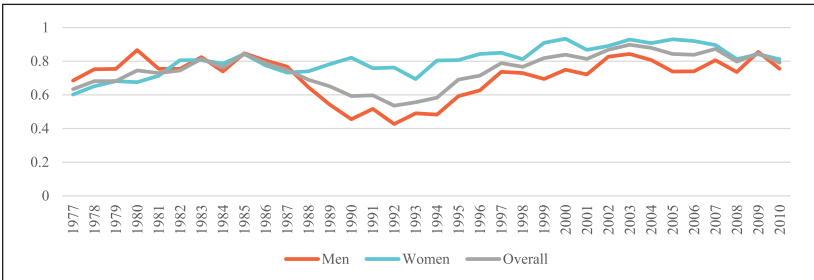**Figure 2.** Percentage of arrestees who received fines, by gender.



**Figure 3.** Percentage of arrestees who received jail, by gender.

industry (Dank et al., 2015; Weitzer, 1999); however, we include in our analysis only the gender information gathered and recorded in the Harris County database.

**Table 2.** Age of Arrestees by Gender.

|  | Overall (*N* = 22,916) | Male (*n* = 10,301) | Female (*n* = 12,615) |
|---|---|---|---|
| Age |  |  |  |
| Minimum | 12.0 | 12.0 | 13.0 |
| Maximum | 87.6 | 87.6 | 67.0 |
| *M* | 31.6 | 33.2 | 30.4 |
| *SD* | 10.0 | 10.7 | 9.2 |

*Race and ethnicity.* As with gender, we rely on the information gathered and recorded within the Harris County dataset. Law enforcement only records "Black," "White," and "Other," which is reflected in one categorical variable. We use a census-derived procedure to use surnames to impute Hispanic ethnicity, which is a powerful approach with few false positives but with the known limitation of undercounting Hispanic individuals (Ormachea et al., 2015). Again, we acknowledge the existence of multiracial arrestees; however, we were limited to the available variables which placed individuals into a single, discrete category. As indicated by Table 1, the proportions of the races are somewhat different between the genders (e.g., 36% of arrested females were Black compared with 26% of the arrested males). Therefore, we include race as a control variable so that we can better isolate the effect of gender on punishment.

*Age.* Law enforcement personnel record the arrestee's date of birth, which we use to calculate age at the time of arrest. This is a continuous variable from 11 to 88 years of age (Table 2). As with race, the distribution of age is not the same across men and women; specifically, male arrestees are almost 3 years older than females and have a higher maximum age (87.59).

*Hurricane Katrina.* As we observed an increase in prostitution arrests in Harris County in 2005 and 2006, we also include two binary indicator variables to control for the influx of 35,000 people displaced from New Orleans who moved to Harris County in the aftermath of the storm. We also hypothesized that some of these individuals would have a criminal record from jurisdictions not reflected within the underlying dataset. Some of these folks were temporary refugees, but others became permanent residents of the Houston area. Therefore, we attempt to control for temporary refugees who left the region soon after with a binary variable covering the time span from Katrina's landfall on August 29, 2005, until January 1, 2006. We also include a binary indicator variable from before and after Katrina landfall to attempt to control

for the increased likelihood of undercounting someone's criminal history after the hurricane.

## Analytical Methods

Bivariate statistical techniques, logistic regression, and ordinary least squares (OLS) regression analysis were used in this study to explore three related questions. For individuals convicted of Misdemeanor B prostitution offenses in Harris County:

1. Are there gendered differences in the likelihood of receiving sanctions in the form of fines, jail time, and probation?
2. Are there gendered differences in the composition of sanctions?
3. How does gender affect the fine amount, the probation length, or the sentence length?

*Odds of punishment.* Our analysis of how the odds of receiving *any* fine, probation, or jail sentence vary by gender relies on logistic regression. Specifically, the CRD provides sentencing data in terms of probation length, jail sentence length, and fine amount. We convert those numeric variables to three binary dummy variables, where 0 indicates no jail, fine, or probation punishment and 1 indicates *any* sentence in one of the three categories.

*Severity of punishment.* Our analysis of how gender affects the fine amount, probation length, or jail sentence length relies on OLS regression. Specifically, our independent variables—probation length, jail sentence length, and the fine amount—are numeric variables. Those numeric variables served as the dependent variables when we conducted three separate OLS regression models. As above, our dependent variables consisted of age, gender, and race.

## Results

### Gendered Differences in Likelihood of Receiving Sanctions

We begin by conducting chi-square analyses to compare the frequency with which the males and females in our sample are given sentences that includes jail, probation, or a fine (Table 3). When looking at each of the three sanctions individually, we found that men were significantly more likely to receive fines than women, $\chi^2(1, n = 22,916) = 1740.47, p \leq .001$. While 16% of females arrested for first-time Misdemeanor B–level prostitution offenses received a fine, 41% of males from the same sample received fines.

**Table 3.** Summary Statistics of Variables Used in Punishment Analyses, 1977-2010.

| | Minimum | Maximum | Overall (N = 22,916) | | | | Males (n = 10,301, 45%) | | | | Females (n = 12,615, 55%) | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | n | % | | | n | % | | | n | % | | |
| Sanction | | | | | | | | | | | | | | |
| Fine | | | 6,195 | 27 | | | 4,180 | 41 | | | 2,015 | 16 | | |
| Probation | | | 3,377 | 15 | | | 2,531 | 25 | | | 846 | 7 | | |
| Jail | | | 17,354 | 76 | | | 7,010 | 68 | | | 10,344 | 82 | | |
| Stacked sanctions | | | | | | | | | | | | | | |
| Zero | | | 1,954 | 9 | | | 620 | 6 | | | 1,334 | 10 | | |
| One | | | 14,998 | 65 | | | 5,641 | 55 | | | 9,357 | 75 | | |
| Two | | | 5,964 | 26 | | | 4,040 | 39 | | | 1,924 | 15 | | |
| Three | | | 0 | 0 | | | 0 | 0 | | | 0 | 0 | | |
| | | | | | M | SD | | | M | SD | | | M | SD |
| Sanction severity | | | | | | | | | | | | | | |
| Fine (US$) | 0 | 10,000 | | | 92.01 | 241.78 | | | 140.23 | 294.99 | | | 52.63 | 178.02 |
| Probation (in days) | 0 | 2,920 | | | 35.11 | 95.58 | | | 57.34 | 115.30 | | | 16.96 | 70.78 |
| Jail (in days) | 0 | 365 | | | 11.67 | 17.24 | | | 10.52 | 18.12 | | | 12.60 | 16.42 |

While the use of probation for these prostitution offenses was relatively unusual for both male and female arrestees, men were significantly more likely than women to receive probation, $\chi^2(1, n = 22,916) = 1440.24, p \leq .001$. Seven percent of the females in our sample received a probation sentence, while 25% of the males in the sample were given probation.

Jail was by far the most commonly administered sanction for these low-level prostitution offenses, and we found that females were significantly more likely to receive a jail sentence than were males $\chi^2(1, n = 22,916) = 1440.24, p \leq .001$. Of those arrested for prostitution in our sample, 82% of the females were ultimately given a jail sentence compared with only 68% of males.

Next, using logistic regression, we quantified the comparative odds of receiving one of the three types of punishment (Tables 4, 5, and 6). We found gender has a highly statistically significant correlation with whether the accused received a fine, any probation, or any jail sentence. When compared with male arrestees, females are approximately one-fifth as likely to receive a fine (odds ratio of 0.257-0.278:1, $p < .0001$) (Figure 4) or probation (odds ratio of 0.221-0.265:1, $p < .0001$) (Figure 5). Instead of a fine or probation, females are about ~2.33 times more likely to receive a sentence that includes incarceration (odds ratio of 2.138-2.265:1, $p < .0001$) (Figure 6).

## Gendered Differences in Composition of Punishment

For the purposes of this study, composition of punishment is operationalized as the number of different types of punishment offenders received for a single Misdemeanor B–level prostitution offense in Harris County. For instance, if someone received a sentence of probation and a fine, our composition variable would reflect a 2 to reflect both separate types of punishment. We used an independent samples *t* test to compare the severity of punishments received by men and women for these offenses and found that there was a statistically significant difference in the composition of punishment received by males ($M = 1.33, SD = 0.56$) and females ($M = 1.05, SD = .51$); $t(20,487.38), p = .000$. These results suggest that for the very same offenses, men were more likely to receive stacked sanctions (a combination of a jail sentence, a probation sentence, and/or a fine).

Our correlation analyses also demonstrate that fines and probation tend to go hand-in-hand (correlation of .61). Probation and jail are inversely correlated (–0.73), as are fines and jail (–0.42). This suggests two notions: First, the system seems to view probation as an alternative to incarceration. Second, fines are more likely to be paired with probation than with incarceration.

**Table 4.** Logistic Regression Analysis Predicting Probation (N = 22,916).

| | Model 1 | | | Model 2 | | | Model 3 | | |
|---|---|---|---|---|---|---|---|---|---|
| | exp(b) | exp(SE) | p value | exp(b) | exp(SE) | p value | exp(b) | exp(SE) | p value |
| Intercept | 0.326 | 1.023 | 0.00E+00 | 0.109 | 1.097 | 2.45E-126 | 0.110 | 1.055 | 8.19E-125 |
| Gender: female | 0.221 | 1.043 | 3.06E-279 | 0.252 | 1.055 | 8.52E-148 | 0.265 | 1.060 | 1.02E-133 |
| Age | | | | 1.010 | 1.002 | 1.27E-05 | 2.202 | 1.125 | 5.27E-42 |
| Race: White | | | | 2.272 | 1.059 | 9.06E-46 | 6.642 | 1.065 | 3.78E-58 |
| Race: Other | | | | 6.351 | 1.124 | 2.95E-56 | 0.943 | 1.002 | 3.46E-01 |
| Ethnicity: Hispanic | | | | 0.912 | 1.064 | 1.40E-01 | 1.012 | 1.364 | 3.01E-07 |
| Katrina: Temporary displacement | | | | | | | 0.655 | 1.059 | 1.73E-01 |
| Katrina: Permanent displacement | | | | | | | 0.763 | 1.081 | 2.58E-06 |

**Table 5.** Logistic Regression Analysis Predicting Jail Sentence ($N = 22{,}916$).

| | Model 1 | | | Model 2 | | | Model 3 | | |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| | exp($b$) | exp($SE$) | $p$ value | exp($b$) | exp($SE$) | $p$ value | exp($b$) | exp($SE$) | $p$ value |
| Intercept | 2.131 | 1.021 | 1.34E-280 | 4.769 | 1.080 | 6.98E-91 | 4.717 | 1.081 | 3.38E-89 |
| Gender: Female | 2.138 | 1.032 | 1.24E-129 | 2.265 | 1.041 | 6.67E-90 | 2.167 | 1.042 | 5.19E-78 |
| Age | | | | 0.998 | 1.002 | 3.37E-01 | 0.996 | 1.002 | 7.05E-02 |
| Race: White | | | | 0.428 | 1.047 | 2.05E-76 | 0.439 | 1.047 | 1.96E-71 |
| Race: Other | | | | 0.118 | 1.102 | 2.88E-107 | 0.112 | 1.103 | 1.65E-110 |
| Ethnicity: Hispanic | | | | 1.211 | 1.054 | 3.13E-04 | 1.177 | 1.055 | 2.30E-03 |
| Katrina: Temporary displacement | | | | | | | 2.077 | 1.301 | 5.51E-03 |
| Katrina: Permanent displacement | | | | | | | 1.275 | 1.047 | 1.09E-07 |

**Table 6.** Logistic Regression Analysis Predicting Fine Amount ($N$ = 22,916).

| | Model 1 | | | Model 2 | | | Model 3 | | |
|---|---|---|---|---|---|---|---|---|---|
| | exp(b) | exp(SE) | p value | exp(b) | exp(SE) | p value | exp(b) | exp(SE) | p value |
| Intercept | 0.683 | 1.020 | 1.44E-80 | 0.166 | 1.079 | 1.28E-121 | 0.168 | 1.080 | 1.72E-119 |
| Gender: Female | 0.278 | 1.032 | 0.00E+00 | 0.257 | 1.042 | 1.93E-238 | 0.275 | 1.043 | 2.14E-210 |
| Age | | | | 1.017 | 1.002 | 5.87E-20 | 2.467 | 1.047 | 1.30E-84 |
| Race: White | | | | 2.576 | 1.047 | 9.28E-94 | 14.281 | 1.106 | 7.91E-154 |
| Race: Other | | | | 13.013 | 1.104 | 3.94E-147 | 1.174 | 1.052 | 1.71E-03 |
| Ethnicity: Hispanic | | | | 1.117 | 1.052 | 2.91E-02 | 1.021 | 1.002 | 4.76E-26 |
| Katrina: Temporary displacement | | | | | | | 0.874 | 1.248 | 5.42E-01 |
| Katrina: Permanent displacement | | | | | | | 0.656 | 1.047 | 8.82E-20 |
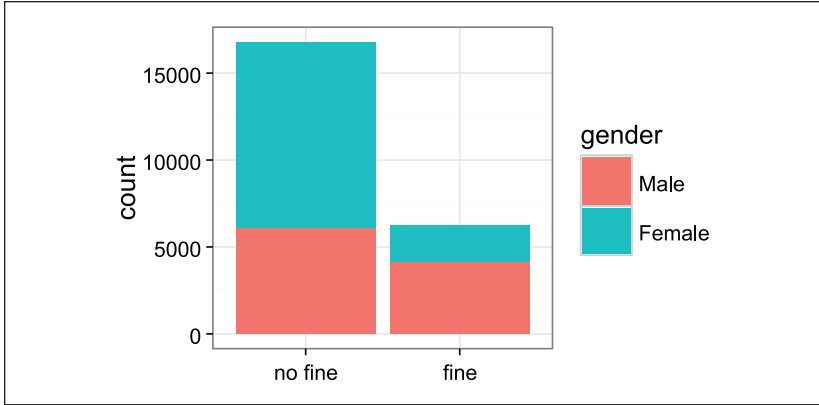
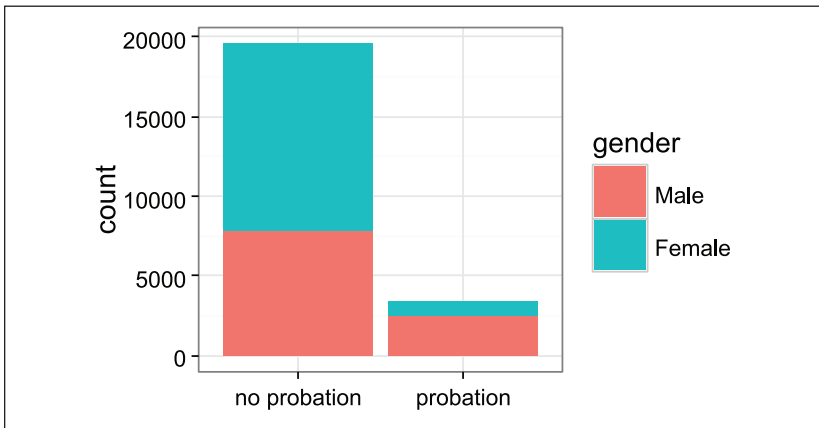**Figure 4.** Arrestees who received fines, by gender.



**Figure 5.** Arrestees who received probation, by gender.

Examined individually, there were differences in the amount of each punishment imposed. Of the total population, 18.24% received a fine ($n =$ 4,180, $M =$ US\$340.34, $SD =$ US362.95), though men were more likely to receive punishment in the form of a fine than were women. Among arrestees who received a fine, we find that the mean fine for men ($M =$ US\$345.57) was slightly higher than that for women ($M =$ US\$329.50), while the range of fines received was broader for men ($SD =$ 378.81) than that for women
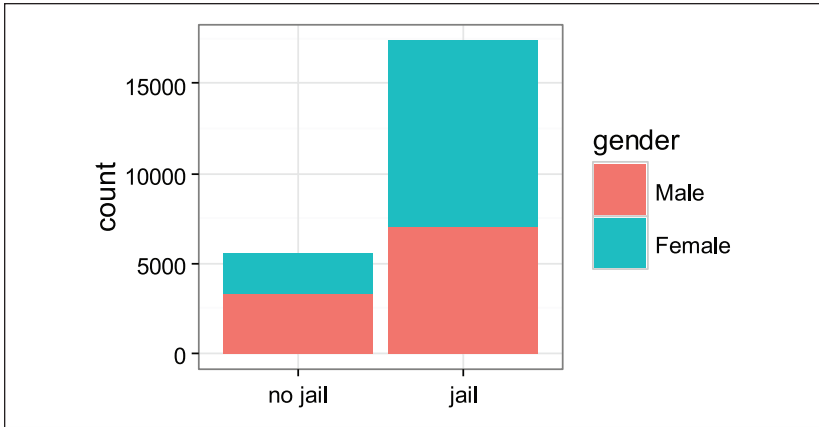
**Figure 6.** Arrestees who received arrest, by gender.

($SD$ = 327.424). Notably, the maximum fine for males was US$10,000, while the maximum fine for females was US$1,000.

An examination of the use of probation as a sanction for Misdemeanor B–level prostitution offenses reveals similarly gendered distinctions. While 11.04% of the total population received a probation term as part of their sanction ($n$ = 3,377, $M$ = 0.652 years, $SD$ = 0.319), men who received probation had shorter terms with less variability ($n$ =2,531, $M$ = 0.639, $SD$ =0.313) than those for women ($n$ =846, $M$ = 0.693, $SD$ = 0.336).

Within this arrestee population, the most common punishment is a jail sentence, with 75.74% of the arrestees incarcerated for a mean of 0.042 years (15.41 days) and a standard deviation of 0.050 (18.31 days). Far fewer men ($n$ = 7,010) than women ($n$ = 10,344) received a jail sentence. Both genders received a similar mean sentence of 0.042 years, but men's sentences had a greater range ($SD$ = 0.055 vs. 0.046).

## Gendered Differences in Amount of Punishment

Next, we turned to OLS regression to quantify gender's effect on fine amount or the length of incarceration/probation. We found that gender has a significant impact on specific fine amounts, probation lengths, and incarceration lengths (Tables 7, 8, and 9). Depending on the covariates within the model, men received an extra fine of US$84.85 to US$87.60 compared with women ($p$ < .0001), and an extra 34 to 39 days of probation ($p$ < .0001). Women, on

**Table 7.** Ordinary Least Squares Regression Predicting Probation Length (N = 22,916).

| | Model 1 | | | Model 2 | | | Model 3 | | |
|---|---|---|---|---|---|---|---|---|---|
| | b | SE | p value | b | SE | p value | b | SE | p value |
| Intercept | 0.157 | 0.003 | 0 | 0.087 | 0.008 | 2.67E-29 | 0.088 | 0.008 | 9.16E-30 |
| Gender: Female | −0.111 | 0.003 | 5.1E-227 | −0.094 | 0.004 | 1.04E-118 | −0.092 | 0.004 | 8.72E-110 |
| Race: White | | | | 0.052 | 0.004 | 1.56E-33 | 0.051 | 0.004 | 9.26E-32 |
| Race: Other | | | | 0.145 | 0.012 | 3.43E-36 | 0.147 | 0.012 | 3.91E-37 |
| Age | | | | 0.001 | 0.000 | 4.37E-04 | 0.001 | 0.000 | 9.58E-05 |
| Ethnicity: Hispanic | | | | | | | 0.002 | 0.006 | 6.80E-01 |
| Katrina: Temporary displacement | | | | | | | −0.023 | 0.019 | 2.18E-01 |
| Katrina: Permanent displacement | | | | | | | −0.012 | 0.004 | 4.39E-03 |

**Table 8.** Ordinary Least Squares Regression Predicting Jail Sentence Length (N = 22,916).

| | Model 1 | | | Model 2 | | | Model 3 | | |
|---|---|---|---|---|---|---|---|---|---|
| | b | SE | p value | b | SE | p value | b | SE | p value |
| Intercept | 0.029 | 0.000 | 0 | 0.039 | 0.002 | 8.13E-145 | 0.040 | 0.002 | 3.46E-150 |
| Gender: Female | 0.006 | 0.001 | 8.3E-20 | 0.005 | 0.001 | 5.10E-09 | 0.007 | 0.001 | 8.03E-17 |
| Race: White | | | | -0.010 | 0.001 | 2.18E-30 | -0.011 | 0.001 | 1.03E-37 |
| Race: Other | | | | -0.035 | 0.002 | 2.48E-53 | -0.033 | 0.002 | 1.69E-47 |
| Age | | | | 0.000 | 0.000 | 1.56E-01 | 0.000 | 0.000 | 4.72E-04 |
| Ethnicity: Hispanic | | | | | | | -0.004 | 0.001 | 7.03E-05 |
| Katrina: temporary displacement | | | | | | | 0.002 | 0.004 | 6.36E-01 |
| Katrina: Permanent displacement | | | | | | | -0.012 | 0.001 | 4.42E-45 |

**Table 9.** Ordinary Least Squares Regression Predicting Fine Amount ($N = 22,916$).

| | Model 1 | | | Model 2 | | | Model 3 | | |
|---|---|---|---|---|---|---|---|---|---|
| | b | SE | p value | b | SE | p value | b | SE | p value |
| Intercept | 140.227 | 2.343 | 0 | 36.592 | 6.938 | 1.35E-07 | 36.699 | 6.941 | 1.26E-07 |
| Gender: Female | −87.596 | 3.158 | 1.5E-166 | −84.069 | 3.628 | 5.14E-117 | −84.005 | 3.688 | 3.50E-113 |
| Race: White | | | | 49.634 | 3.857 | 1.03E-37 | 49.614 | 3.876 | 2.40E-37 |
| Race: Other | | | | 253.760 | 10.372 | 5.60E-130 | 253.770 | 10.396 | 2.10E-129 |
| Age | | | | 1.944 | 0.178 | 1.48E-27 | 1.943 | 0.180 | 5.57E-27 |
| Ethnicity: Hispanic | | | | | | | 15.423 | 5.142 | 2.71E-03 |
| Katrina: Temporary displacement | | | | | | | −14.177 | 17.133 | 4.08E-01 |
| Katrina: Permanent displacement | | | | | | | 0.091 | 3.885 | 9.81E-01 |

the contrary, received longer sentences with an extra 1.7 to 2.5 days in jail (*p* < .0001).

## Discussion

As commercial sexual exploitation and human trafficking have become hot button social and political issues since the passage of the Trafficking Victims Protection Act (TVPA) of 2000, there is renewed interest in the efforts to control prostitution. A retrospective look at how one U.S. county's traditional law enforcement response to prostitution has been gendered reveals several important findings worthy of discussion.

First, consistent with previous studies on prostitution enforcement by law enforcement, we find that women are arrested by police for prostitution more often than men. For first-time prostitution arrestees in Harris County, 55% of our sample was female while 45% were male. When examining all levels of prostitution arrests recorded in Harris County during this study period, from 1977-2010, the disparity is even more pronounced. Of the 53,240 total prostitution arrests for which we know the gender of the arrestee, 68% (n = 36,439) were female and 28% (n = 14,939) were male. Our study demonstrates a gendered double standard for participants in prostitution. This is consistent with national trends, in which of the approximately 90,000 prostitution arrests each year, roughly one third are males with about 20% being male sellers of sex and 10% being buyers (Weitzer, 1999). While we are not able to distinguish the role of the male arrestees in our sample as either buyers or sellers, this gender disparity in arrests should be addressed, particularly because buyers appear to outnumber sellers of sex (Weitzer, 1999).

Second, our findings suggest that women involved in prostitution were more likely to receive jail sanctions than men were. It is arguable whether jail is more punitive than a probation sentence or a fine. Even so, research finds that even a short-term jail sentence can involve collateral social consequences and economic costs (Irwin, 1985; Pogrebin, Dodge, & Katsampes, 2001). These costs may include social stigmatization, disruption of families, displacement of children into the care of other relatives, and loss of employment (Arditti, Lambert-Shute, & Joest, 2004; Pogrebin et al., 2001) that may not be incurred if given a sentence of probation or a fine. For women arrested for prostitution, most of whom we assume are sellers of sex; they may already have been financially vulnerable before their prostitution arrest. Research finds that for someone supporting a family that is economically at-risk, a jail sentence serves to further their financial strain (Arditti et al., 2004). A fine would also be plausibly expected to strain those financial resources.

Third, our findings indicate that men are more likely to receive multiple sanctions than women are. However, we believe this is because probation and fines seem to go together, and men are more likely to receive either one. When severity of sanction was measured in jail sentence length, probation sentence length, or fine amount, we found that men receive larger fines and longer probation terms than women. Women receive a longer sentence of incarceration. This differential treatment appears driven by gender, which means it goes against the spirit of everyone being equal before the law.

It is possible that this difference might be driven by self-selection, the role in the commercial sexual exchange, or access to effective legal representation. Specifically, a seller probably expects to continue to violate the law into the future at a higher rate than a buyer, who may only violate the law sporadically. If so, then the seller would arguably be foolish to accept a plea bargain that includes a probation term; their expected future violations imply that they would be set up to fail and thereby turn one charge into two. Therefore, plea bargaining incentives may account for some of this effect. In a future study, we plan to look at whether status of legal defense and/or case dispositions predict sentencing.

Finally, our analyses illustrate that, though men on average received significantly higher fines than women did, the average actual dollar amount did not differ by much. It is likely that the average fine amount, US$340.34, presented a much more significant challenge to sellers of sex than it did to buyers. Many sellers of sex are dependent on this work for their livelihood (Weitzer, 1999); therefore, the imposition of a fine may compel them to return to the illegal activity in an attempt to pay their fines. A fine likely presents less burden to buyers of sex, who have demonstrated that they have at least some disposable income by their very attempt to purchase sex. We also note the value of a dollar changed significantly between 1977 and 2010, making this average fine even more burdensome. We plan to conduct another study in which we take arrestee gender and role in the prostitution exchange into account to examine whether these findings hold or whether the gendered effects are moderated by whether the arrestee was a buyer or a seller. These findings, we believe, will add dimension to the literature about gender bias in criminal justice by addressing social expectations of gender for both men and women involved in commercial sex.

Despite the importance of the findings listed here, there are several limitations of this study that must be acknowledged. First, the landscape of prostitution changed drastically during the time frame during which these data were collected and continues to evolve in the present. Street-level prostitution, that which is most visible to both law enforcement and concerned community members, is increasingly being driven indoors as it is facilitated by

the Internet on websites such as craigslist.org and backpage.com (Farley, Franzblau, & Kennedy, 2014). Although street-level prostitution is still prevalent, this increase in Internet-facilitated indoor prostitution creates new enforcement challenges for police. Second, we limited our analyses to arrestees who were only charged once and otherwise lacked an arrest history. In doing so, we calculated arrests only within Harris County; we have no way of knowing whether someone has been previously arrested for crimes in other jurisdictions.

Using a large dataset with more than 20,000 observations, our findings are consistent with much of what has been previously reported in the literature. The increased power of large samples means that researchers can detect smaller, subtler, and more complex effects. For example, our sample size enabled the detection of an effect like the additional 1.7 to 2.5 days in jail for women convicted of prostitution.

Our findings have clear implications for future research and policy considerations. To begin, at the most basic level, our analysis reveals that women are apprehended and arrested for prostitution at greater rates than men. Therefore, we recommend that enforcement strategies be adjusted to focus more on male participants of prostitution exchanges, particularly among buyers of sex.

Second, we recommend alternative sanctions for sellers arrested for prostitution, for whom a traditional law enforcement response for a misdemeanor-level offense may be ineffective at best or socially debilitating at worst. Several jurisdictions are currently developing or piloting diversion programs for sellers of sex who are interested in exiting the life of prostitution. Few studies have examined the success of such programs, but initial evaluations demonstrate promising results (see, for example, Roe-Sepowitz et al., 2011), suggesting that a move toward the provision of services to people who have been involved in selling sex may be more appropriate than the traditional punitive criminal justice response.

Future research examining the gendered outcomes of arrests and sanctions for prostitution should assess whether there are correlations between specific types of sanctions and recidivism rates. It would be helpful to know if certain types of sanctions used with prostitution offenders reduce, increase, or have no effect on recidivism rates. In addition, we plan to explore whether access to paid legal representation or participation in plea bargaining affected the sanctions received by the arrested buyers and sellers of sex in our sample.

## Declaration of Conflicting Interests

## Funding

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## Note

1.  Misdemeanor B is the lowest level offense for prostitution; prior convictions enhance the charge to a Misdemeanor A.

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