

Latinos and the Federal Criminal Justice System

by Angela Arboleda*

Introduction

According to the U.S. Department of Justice's Bureau of Justice Statistics, a total of 6,467,200 men and women were under correctional supervision, on probation, in jail, in prison, or on parole in 2000. Currently, there are approximately two million people in prison and jail combined, compared with 500,000 in 1980, and the majority of these are racial minorities. Latinos,** African Americans, and other

minorities accounted for approximately 70% of the new inmates admitted into the prison population between 1985 and 1997, although they represent approximately 25% of the total population of the United States. The majority, 75.9%, has been incarcerated for low-level, nonviolent drug offenses.

There are many factors associated with the overrepresentation of Hispanic Americans in the criminal justice system. The lack of

adequate education, high poverty, and the need for healthy recreational activities contribute to disproportionate numbers of Latinos in all stages of the criminal justice system. The latest data show that 27.8% of Latinos between the ages of 16 and 24 are not currently in school and have not graduated from high school, and only 57% of Latinos 25 years and older have a high school diploma. In part because of limited education and, subsequently,

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** The terms "Hispanic" and "Latino" are used interchangeably throughout this brief and refer collectively to Mexicans, Puerto Ricans, Cubans, Central and South Americans, Dominicans, and others of Spanish and Latin American descent. Hispanics can be of any race.

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poor earnings ability, the Latino population has had a persistently high poverty rate over the past two decades, even during times of economic prosperity. In 2000, 21% of Latinos and 28% of Hispanic children were poor. Both low educational attainment and high poverty are associated with a greater likelihood of contact with the criminal justice system.

Another issue especially relevant for Latino and African American youth is that they tend to live in urban areas with few resources, and often lack sufficient opportunities for sports, recreation, or other activities that would deter them from becoming involved with the criminal justice system.

Another relevant issue linked to the increase of Latinos in the criminal justice system relates to biased law enforcement practices. In particular, the practice of racial profiling and the often inaccurate perception on the part of law enforcement agencies or officials that Latinos and other minorities are more likely than Whites to commit crimes have also played a role in the rise in the share of

Latinos in prison. In addition, certain broad policies, including the “war on drugs,” have clear, disproportionate, negative effects on Hispanics and other minorities.

The National Council of La Raza (NCLR) is concerned about the effects that violent crimes, public offenses, drug abuse, and increases in the Latino prison population have on the Latino community, and on the nation as a whole. As part of its broader civil rights policy portfolio, NCLR has undertaken an initiative to examine and document the experiences of Latinos in the criminal justice system. Based on the data that follow, NCLR believes that changes in the criminal justice system need to take place at both the federal and local levels, guided by fairness, justice, and equality. With respect to public policy, NCLR supports a combination of strong and fair law enforcement, and crime prevention, diversion, and substance abuse prevention and treatment programs.

This statistical brief presents the most recent data* related to

Latinos in the federal criminal justice system.** The data are organized by the steps in which an individual moves through the criminal justice system. The brief concludes with a short analysis of the data and includes recommendations to address the disproportionate number and disparate treatment of Latinos in the criminal justice system. The brief also includes a glossary of terms.

Pretrial Release and Detention

U.S. district courts are responsible for a defendant’s pretrial release and/or detention, after considering recommendations from both U.S. attorneys and the pretrial services offices. Under the Bail Reform Act of 1984, a defendant can be released before trial either on personal recognizance or unsecured bond or on financial conditions. Defendants may be released as long as they are deemed to pose a low flight risk and no threat to the community. Defendants charged with less serious offenses

* Where available, data were presented by race and ethnicity. In some cases, data were only available by “Hispanic” and “non-Hispanic.”

** NCLR recognizes that the majority of Latinos are detained at the state level; however, the scope of this initial examination of the experience of Latinos is on the federal criminal justice system. Future NCLR analyses will focus on different states.

are more likely to be released under minimal supervision or conditions than defendants charged with more serious offenses.**

- **Hispanic defendants were about one-quarter as likely as non-Hispanic* defendants to be released before trial.** In 1999, 22.7% of Hispanic defendants were released before trial, compared with 63.1% of non-Hispanic defendants.
- **Hispanics were substantially more likely to be detained before trial than their non-Hispanic counterparts.** In 1998, nine out of ten Hispanics (90.6%) were detained before trial compared with slightly more than half of non-Hispanics (53.5%).
- **Hispanic and Black defendants were more likely than White defendants to be arrested for drug offenses.** In 1996, 46.3% of Hispanic defendants and 47.9% of Black defendants were charged with drug offenses in U.S. district courts, compared with 29.4% of White defendants.

- **According to data from the Department of Health and Human Services, drug use does not vary significantly by race or ethnicity.** In 2000, among persons 12 and older, 10.1% of Hispanics, 10.9% of Blacks, and 11.2% of Whites reported illicit drug use in the past year.
- **Hispanic defendants were the least likely of all groups to have a criminal history.** In 1996, 56.6% of Hispanic defendants had been arrested on at least one prior occasion compared with 75% of Black defendants and 60.5% of White defendants.

Adjudication

Adjudication is the judicial procedure that includes hearings and trials in federal district courts where defendants plead guilty or not guilty of the charges they face. Defendants are acquitted or convicted after adjudication.

- **Among defendants convicted of all offenses, the majority were non-Hispanic.** In 1999, 61.3% of the defendants convicted in the U.S. were

non-Hispanic, whereas 38.7% were Hispanic.

- **Hispanics were especially likely to be convicted for drug offenses and least likely to be convicted for violent offenses.** In 1999, among offenders convicted for drug offenses, 42.6% were Hispanic and 57.4% were non-Hispanic. By contrast, among offenders convicted for violent offenses only 9.5% were Hispanic and 90.5% were non-Hispanic.

Sentencing

In the federal criminal justice system, a sentence is the imposition of a sanction on a convicted offender. In most cases the judge decides the sentence, but in some jurisdictions the jury decides the sentence, particularly for capital offenses. Before arriving at the appropriate sentence, a sentencing hearing may be held at which evidence of aggravating or mitigating circumstances is considered.

- **Although the majority of persons sentenced to prison in 1999 were male, White,**

* "Non-Hispanics" may be Black, White, or Asian individuals who are not of Hispanic descent.

** The information in the lead paragraphs of each section of bullets, including definitions of terms, is taken from, *Compendium of Federal Justice Statistics, 1999*, Washington, DC: U.S. Department of Justice, May 2000.

non-Hispanic, and U.S. citizens, the percentage of Latinos in prison is three times their proportion of the national population. Data show that more than eight in ten (85%) offenders sentenced to prison in 1998 were male. In addition about two-thirds (63%) were non-Hispanic and 67% were White and U.S. citizens. By contrast, 37% of the offenders were Hispanic, although Hispanics constitute 12.5% of the total U.S. population.

- **Data suggest that similar proportions of people are sentenced, regardless of whether the charge is an immigration offense, a violent offense, or a drug offense.** In 1999 in cases that were terminated, 90.1% of offenders convicted and sentenced to incarceration were for immigration offenses, while 91.7% of offenders convicted and sentenced to incarceration were for violent offenses, and 92.4% of offenders convicted and sentenced to incarceration were for drug offenses.
- **Although the Immigration and Naturalization Service (INS) handles most of the**

detention of immigrants, the Federal Bureau of Prisons (FBOP) is experiencing a rapid growth in its custody of immigrants, especially of individuals who have violated only civil immigration laws. Between 1990 and 2001, the number of immigration offenders in FBOP custody increased 610%, from 1,728 to 12,266.

- **Between 1991 and 1997, the average time served for an immigration offense almost tripled.** In 1991 the average time served for an immigration offense was 4.6 months, in comparison with 15.1 months in 1997. Immigration offenders tend not to be violent and they stay in FBOP custody, sometimes indefinitely, awaiting their deportation orders.
- **While Hispanics convicted of drug offenses are slightly more likely than non-Hispanics to be incarcerated, data suggest that few drug offenders are given substance abuse treatment while in prison.** In 1999, 94.4% of offenders sentenced to prison for drug offenses were Hispanic compared with 91.3% of non-Hispanics. Only

11% of Hispanics in prison received any substance abuse treatment.

- **For those convicted of violent offenses, Hispanics served prison sentences that were 14 months longer, on average, than their non-Hispanic counterparts.** In 1999 Hispanics served an average of 99 months in prison for violent offenses, compared with 85.1 months for non-Hispanics who were charged with the same offense.

Federal Prison Population

A prisoner is a person confined in a facility owned or contracted by the federal government, serving a sentence of more than one year.

- **While the majority of the standing federal prison population in 1999 was White, Latinos were overrepresented among the prison population.** Racial/ethnic data show that, at the end of 1999, 57% of the prison population was White, 39.9% was Black, and 29.3% was Hispanic. Furthermore, 73.6% were U.S. citizens.

- **Among prisoners who were incarcerated for drug, violent, and property offenses, the majority were non-Hispanic.** As Table 1 shows, in 1999, Hispanics represented:
 - Less than one-third (31.8%) of drug offenders in prison, compared with more than two-thirds (68.2%) of non-Hispanics in prison for drug offenses.
 - 7.5% of violent offenders and 9% of property offenders, compared with 92.5% of violent offenders and 91% of property offenders who were non-Hispanic.

- **Hispanics were more likely than Blacks, but less likely than Whites, to be released from prison.** Racial/ethnic data show that, in 1999, 42.4% of prisoners released from prison were Hispanic, 23.6% were Black, and 73.3% were White.
- **Of prisoners released by standard methods* for violent offenses, Blacks served slightly more time than Whites, and non-Hispanics served about the same amount of time as Hispanics.** In 1999, ethnic data show that Hispanics and

non-Hispanics served about the same amount of time for violent offenses (52.5 months and 53.3 months, respectively). However, racial data show that Blacks served 58.8 months and Whites served 54.4 months for violent offenses.

- **Of prisoners released by standard methods for drug offenses, non-Hispanics served longer sentences than Hispanics.** In 1999, ethnic data show that non-Hispanics served 44.8 months and Hispanics served 34.7 months for drug offenses. This seems to be due, in part, to longer

TABLE 1

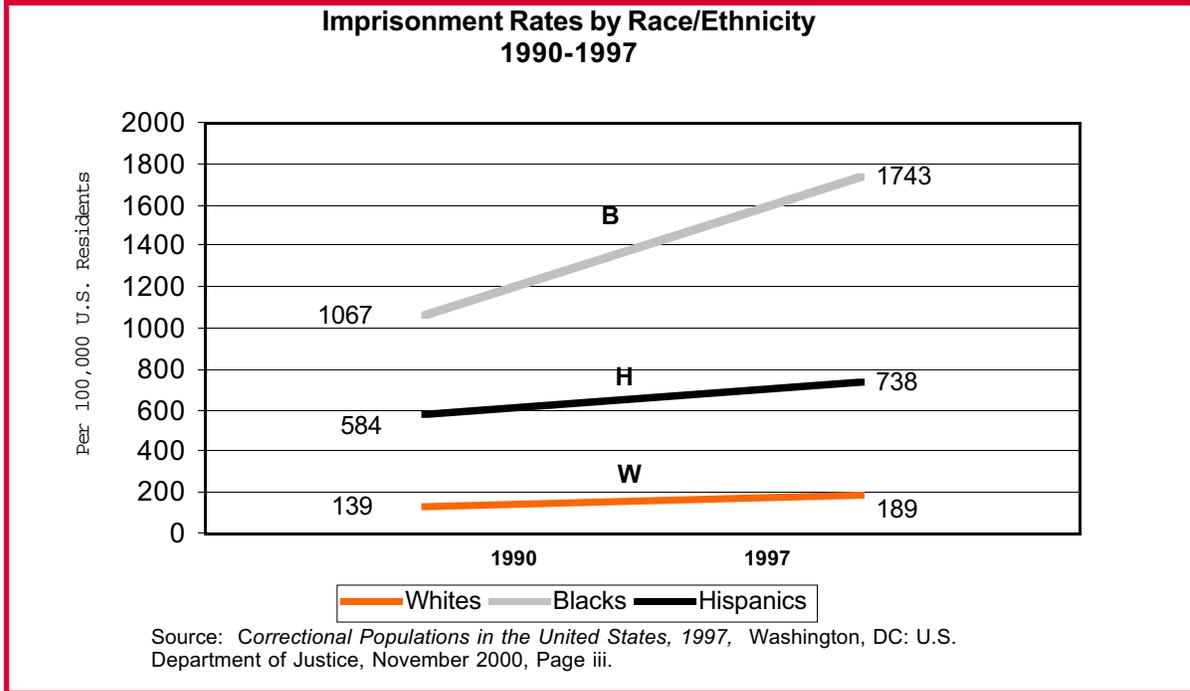
**Characteristics of the Federal Prison Population
by Major Offense Category
October 1, 1998 - September 30, 1999**

| Offender Characteristics | Total Prisoners (number) | All Offenses (%) | Violent Offenses (%) | Property Offenses | | Drug Offenses (%) | Public-order offenses | |
|--------------------------|--------------------------|------------------|----------------------|-------------------|-----------|-------------------|-----------------------|-----------|
| | | | | Fraudulent (%) | Other (%) | | Regulatory (%) | Other (%) |
| Race | | | | | | | | |
| White | 67,535 | 57.0 | 45.1 | 66.0 | 60.2 | 53.4 | 73.6 | 69.4 |
| Black | 47,301 | 39.9 | 43.7 | 30.3 | 33.0 | 45.2 | 24 | 28 |
| Other | 3,616 | 3.0 | 11.2 | 6.7 | 6.7 | 1.4 | 2.5 | 2.7 |
| Ethnicity | | | | | | | | |
| Hispanic | 34,749 | 29.3 | 7.5 | 9.0 | 7.0 | 31.8 | 14.5 | 42.7 |
| Non-Hispanic | 83,703 | 70.7 | 92.5 | 91.0 | 90.0 | 68.2 | 85.5 | 57.3 |

Source: *Compendium of Federal Justice Statistics 1999*, Washington, DC: U.S. Department of Justice, May 2000, Table 7.10, p.100.

* See Glossary for definition.

FIGURE 1



sentences served by African Americans. Racial data show that Blacks served longer sentences than Whites by 14.2 months (50.1 months versus 35.9 months).

- **There was an upward trend in the number of sentenced prisoners between 1990 and 1997 for all groups, although the rate increase was smallest for Hispanics and greatest for Blacks during this period.** The number of sentenced prisoners under state or federal jurisdiction per

100,000 U.S. residents increased from 297 in 1990 to 444 in 1997. Between 1990 and 1997, the imprisonment rate of Whites rose 36%, from 139 to 189 per 100,000; the rate for Blacks increased 63%, from 1,067 to 1,743; and the rate for Hispanics grew 35% from 548 to 738. (see Figure 1).

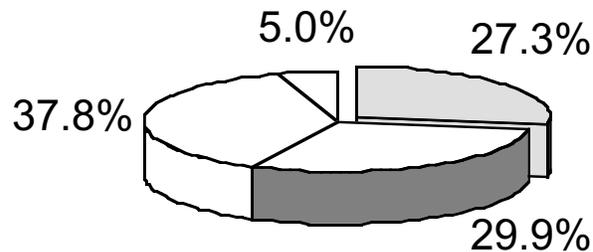
- **Hispanic men between 25 and 29 years old were three times as likely as their White counterparts to be in prison, but significantly less likely than Black men to be**

incarcerated. In 1997, among males between the ages of 25 and 29 years old, 2,701 per 100,000 Hispanics were sentenced prisoners under state and federal jurisdictions. By contrast, 867 per 100,000 White males and 8,623 per 100,000 Black males in that age range were in prison that year. Among the female population, there were 210 per 100,000 Hispanics, 415 per 100,000 Blacks, and 58 per 100,000 Whites.

- **Data show that the majority of the federal inmate population in 2002 were U.S. citizens.** U.S. citizens accounted for 70.6% of federal inmates, while 16% are from Mexico, 2.4% from Colombia, 2% from the Dominican Republic, 1.7% from Cuba, and 7.3% from other countries.
- **Hispanics accounted for more than one in four of the federal inmate population in 1997.** Racial/ethnic data show that Hispanics accounted for 27.3% of federal inmates in 1997. By contrast, White non-Hispanic and Black non-Hispanic federal inmates accounted for 29.9% and 37.8%, respectively (see Figure 2).
- **Among the federal prison population, Hispanics were less likely than others to have been convicted of violent offenses.** As Table 2 shows, in 1997, 6.8% of Hispanics were in federal prison for violent offenses, compared with 18.6% of Whites and 15.3% of Blacks.
- **The largest proportion of federal prisoners in each racial/ethnic group was incarcerated for drug offenses, although Latinos are most severely affected.** In 1997, 74% of Hispanic federal prison inmates, 49.4% of Whites, and 67.2% of Blacks were incarcerated for drug offenses, as shown in Table 2.
- **Hispanics in federal prisons constituted the second largest racial/ethnic group of inmates incarcerated for public-order offenses.** In 1997, 18% of White prisoners and 15.5% of Hispanic prisoners were incarcerated for public-order offenses, compared with 12.2% of Black prisoners, as Table 2 shows.
- **Hispanics in federal prisons were least likely to have been charged with property offenses.** Table 2 shows that in 1997, Hispanic federal prisoners charged with property offenses only constituted 2.6% of prisoners, while 13% were White and 4.3% were Black.

FIGURE 2

Federal Inmate Population by Race/Ethnicity 1997



Hispanic
 White non-Hispanic
 Black non-Hispanic
 Other races*

Source: *Correctional Populations in the United States, 1997*, Washington, DC: U.S. Department of Justice, November 2000, Table 4.1, p.48.

* Includes Asian, Pacific Islanders, American Indian, Alaskan Natives, and other racial groups.

■ **Half of Hispanic federal prison inmates had no previous criminal record.**

In 1997, 52.5% of Hispanics had no previous sentence, while 28.8% of Blacks and 37.8% of Whites had not been sentenced previously.

■ **Hispanic federal prison inmates were least likely to be both violent and nonviolent recidivists.**

Hispanic federal prison inmates accounted for 11.7% of violent recidivists and 35.8% of nonviolent recidivists in 1997. Comparative data show that Blacks were 29.1% of violent recidivists and 42.1% of non-violent recidivists, and Whites constituted 25.5% of violent recidivists and 36.7% of non-violent recidivists.

■ **Hispanic federal prison inmates in 1997 were the least likely of all racial/ethnic groups to receive any type of substance abuse treatment.**

More than one-third (36.4%) of Hispanic federal prison inmates received substance abuse treatment or participated in a program to address their substance abuse dependency during 1997. By contrast, 53.7% of Whites and

TABLE 2

Offenses of Federal Prison Inmates by Race and Ethnicity, 1997

| Offense | White | Black | Hispanic | Other |
|-----------------------|-------|-------|----------|-------|
| Violent offenses | 18.6% | 15.3% | 6.8% | 32.8% |
| Property offenses | 13% | 4.3% | 2.6% | 11.4% |
| Drug offenses | 49.4% | 67.2% | 74% | 42.7% |
| Public-order offenses | 18% | 12.2% | 15.5% | 10.8% |
| Other | 1% | 1% | 1% | 2.3% |

Source: *Correctional Populations in the United States, 1997*, Washington, DC: U.S. Department of Justice, November 2000, Table 4.4, p. 51.

48.4% of Blacks received some type of treatment or participated in a substance abuse program.

Probation

Probation is a sentence imposed for commission of a crime whereby the convicted criminal offender is released into the community under the supervision of a probation officer, in lieu of incarceration. The offender is subject to certain restrictions and conditions, such as drug testing or drug treatment.

■ **Hispanic adults were less likely than other racial/ethnic groups to be on probation in 2000.** By the end of 2000, there were 3,779,922 adults on probation from state or federal courts. Of those, Hispanics constituted 16%, Whites 64%, and Blacks 34%.

Parole

Parole is a conditional release of a prisoner before the prisoner's full sentence has been served.

Defendants are required to serve the imposed sentence (less 54 days per year good-time for sentences greater than one year, but not life imprisonment), followed by a term of supervised release. The Sentencing Reform Act of 1984 abolished parole eligibility for federal offenders. However, many states still have parole. The decision to grant parole is made by a parole board, overseen by the U.S. Parole Commission, which has power to grant or revoke parole or to discharge the parolee altogether. Parole can be granted to a prisoner who has observed the rules of the correctional institution and who will not jeopardize public welfare.

- **A smaller proportion of Hispanics than other racial/ethnic groups was on parole from state or federal courts.** In 2000, there were 714,457 adults on parole from state or federal courts, out of which about one-fifth (21%) were Hispanic, while more than half (55%) were White and more than two-fifths (44%) were Black.

Capital Punishment

Capital punishment is the harshest sentence given to any offender.

- **Hispanics have historically accounted for a small percentage of people on death row.** Among individuals who received a death sentence between 1977 and 1999, 483 (8%) were Hispanic, 2,956 (49%) were White, 2,453 (41%) were Black, and 93 (2%) were of other races. Of the 598 who were executed during this period, 43 (7%) were Hispanic, 334 (56%) were White, 211 (35%) were Black, and 10 (2%) were of other races.

Summary and Analysis

Taken together, these data suggest some troubling trends unfolding with respect to Latinos and the criminal justice system. For instance, Latinos are less likely than non-Hispanics to be released before trial. Moreover, the data show that like most racial/ethnic groups, Latinos are most likely to come into contact with the criminal justice system because of drug-related offenses. For those who are convicted of violent crimes, Latinos serve prison sentences that are, on average, 14 months longer than those served by non-Hispanics. Latinos in prison now constitute three times their share of the total U.S. population, and one in four federal prison inmates is Latino.

While these data are daunting, there are ways that the disproportionate effects of the criminal justice system on Latinos can be reduced. For instance, Latinos were less likely than others to have been convicted of violent offenses, and more than half of Hispanic federal prison inmates had no previous criminal history record. In addition, Hispanic prisoners were the least likely of all groups to receive

treatment for substance abuse, suggesting that, at least for those for whom this is a problem, proper treatment responses could affect their recidivism rates.

As part of its mission to reduce poverty and increase life opportunities for Hispanics, the National Council of La Raza (NCLR) believes that it must pay closer attention to these data and to criminal justice issues in general to reverse these negative trends. As these data confirm, incarceration rates are rising for all groups, but African Americans and Latinos are disproportionately represented in the prison population. NCLR's research suggests that two factors have contributed to the disproportionate incarceration of low-level, nonviolent offenders in the past 20 years: "tough on crime" and the "war on drugs" policies.

First, "tough on crime" policies include laws that establish minimum terms of imprisonment; these include mandatory minimum sentences, "three strikes" laws, sentencing enhancements, and change in release policies. Tough on crime policies surfaced in the mid-1980s and came about as a result of a series of federal laws

that deprived judges of their discretion to impose fair sentences, in effect giving prosecutors greater ability to determine sentences by deciding what charges to bring. Racial and ethnic minorities are at a greater disadvantage under a system of mandatory sentencing than under a system that grants judicial discretion.

Second, the “war on drugs” is a nationwide trend that began in the early 1980s as a means to combat drug trafficking and use of drugs. As a result, an increasingly large percentage of those serving time in prison are convicted for nonviolent drug offenses. In 1999, drug offenders accounted for 84% of the total federal inmate population. Almost half (46%) of those charged with a drug offense were Hispanic, 28% were Black, 25% were White, and 2% were of other racial or ethnic groups. However, according to reports from the U.S. Department of Health and Human Services and the U.S. Department of Justice, racial and ethnic minorities commit drug offenses at a rate proportional to their percentage of the United States population.* This suggests that racial and ethnic minorities

are disproportionately disadvantaged by current drug policy and that inaccurate assumptions on the part of law enforcement officials that minorities are more likely to commit drug offenses may contribute to their high incarceration rates.

Communities of color – and in particular the Hispanic community – have supported these two policies as a means to ensure that their families and children live in a safe, crime-free, and drug-free environment. However, NCLR believes that these policies have not produced the desired effects. According to the FBI there has been a drop in the rate of violent crime since 1993; however, no research has documented that tough on crime and war on drugs policies have contributed to this decline. As this brief illustrates, Hispanic males between the ages of 25 and 29 were three times more likely than their White counterparts to be in prison in 1997 and one in four people in prison is Hispanic, which suggests that the overreliance on these policies, coupled with biased law enforcement, has backfired on the Hispanic community, with

devastating effects. Moreover, the majority of Latinos in prison are incarcerated for low-level, nonviolent offenses often serving mandatory minimum sentences.

Furthermore, in part as a result of these policies, the Latino community is disproportionately targeted by law enforcement.

Numerous reports have shown that racial profiling – the use of an individual’s ethnicity or race to establish a cause for suspicion of a crime – is being used as a common law enforcement strategy to combat crime. In addition, some discriminatory practices appear neutral on their face, but have disparate impacts on Latinos. According to the 1996 report, Federal Pretrial Release and Detention:

The detention rate for specific racial/ethnic groups was influenced by factors the courts were required, by statute, to consider. In general minority defendants were more likely to be characterized by these statutory factors than white defendants. For example, the relatively high detention rate of Hispanic defendants was attributable, in part, to the high proportion (69.8%) of Hispanics who were identified as noncitizens.

* The 2000 Census showed that Hispanics constitute 12.5% of the U.S. population, and Black Non-Hispanics account for 12.6%.

The use of racial profiling and other biased law enforcement tactics not only violates civil rights, but undermines trust between the Latino community and law enforcement; this makes it less likely that Latinos will seek help from police, report crime, serve as witnesses, or otherwise cooperate with law enforcement.

The use of discriminatory law enforcement tactics permeates every stage of the criminal justice system, targeting Latinos and other racial and ethnic minorities. From the moment of the arrest, to the plea bargain decisions of prosecutors, to pretrial releases, through the adjudication process, to the determining of the sentence, and the option of supervised releases, Latinos are faced with a system that is plagued with prejudice and discrimination.

The disproportionate impact of these biases of the criminal justice system on the Hispanic community, as documented in this brief, is unquestionably a civil rights issue of vital concern to Latinos. However, it is also a social problem that demands the urgent attention of all Americans. Racial profiling and other discriminatory tactics at the “front end” of the system divert law

enforcement resources away from the real perpetrators of crime to innocent people whose only offense is membership in a particular racial or ethnic group. Such tactics also undermine effective policing strategies, since they inhibit the trust needed to ensure that community members report crimes, serve as witnesses and jurors, and otherwise cooperate with law enforcement.

Excessive Latino incarceration rates resulting from mandatory minimum sentences and other factors risk the creation of a large and growing body of young, usually nonviolent, low-level offenders with limited economic opportunity. Scarce resources would be better targeted to prevention activities that would reduce the incidence of such offenses, and alternative sentencing policies to ensure that the punishment fits the crime.

The failure to ensure adequate substance abuse treatment, education, and prisoner re-entry programs at the “back end” of the system means that opportunities to prevent recidivism are too often lost. Rather than building an ever-increasing number of prisons to house nonviolent offenders and a growing number of recidivists, taxpayer dollars would be better

spent through investments that prepare offenders to function effectively in civilian society.

Recommendations

NCLR believes that public policy, particularly at the federal level, must be shaped to address the disparities noted above. In addition, changes are needed with respect to due process and equal protection to ensure that those individuals who break the law are prosecuted and given fair sentences, but those who are innocent are respected as contributing members of society. To address the disproportionate representation of Latinos in the criminal justice system and the lack of adequate programs to assist them, NCLR:

- **Urges Congress to pass and the Administration to sign the End Racial Profiling Act of 2001.** The Act, introduced by Senators Feingold (D-WI), Clinton (D-NY), and Corzine (D-NJ), and Representatives Conyers (D-MI), Morella (R-MD), Ferguson (R-NJ), Greenwood (R-PA), and Johnson (R-IL) would ban the practice of racial profiling by federal law enforcement agencies, and provide incentives to state and local law enforcement agencies to

eliminate this practice. Additionally, it requires the collection of data on routine investigatory activities; establishes procedures for receiving, investigating, and responding to claims of racial profiling; and requires training of law enforcement agents and holds them accountable for engaging in racial profiling. In addition, the Act offers incentive grants that encourage compliance, development, and implementation of practices, such as the acquisition of technology to facilitate data collection, training to prevent racial profiling, and a fostering mechanism that would make the interaction between law enforcement and the community more respectful.

■ **Urges President Bush and Attorney General Ashcroft to take proactive, interim steps to address racial profiling.**

NCLR urges the President and the Attorney General to reaffirm their commitment to the eradication of this social problem by declaring and enforcing a ban on racial profiling by all federal agencies. Furthermore, it recommends that the Administration require collection and publication of

ethnic/racial data by all federal law enforcement agencies.

■ **Encourages the United States Sentencing Commission to recommend and Congress to enact appropriate reforms that make alternative methods of punishment for nonviolent, low-level drug offenders widely available.**

Under 18 USC Section 3553(a), penalties should not be more severe than necessary and should correspond to the culpability of the defendant. Where current law prevents judges from imposing just sentences for such offenders, Congress should enact alternative methods of punishment for individuals who do not pose a threat to society.

■ **Urges Congress and the United States Sentencing Commission to redress the crack/powder ratio disparity substantially by raising the crack thresholds and maintaining the powder thresholds.**

NCLR urges that the crack/powder cocaine sentences be equalized as much as possible by raising to the greatest allowable extent the level that triggers penalties for crack cocaine. However,

NCLR believes that the only proper way of equalizing the ratio is by raising the crack threshold, and not by lowering the powder threshold.

Reducing the powder threshold would have a disproportionate, negative impact in the Latino community.

■ **Calls on the Administration to request and Congress to appropriate more resources for the Substance Abuse and Mental Health Services Administration (SAMHSA) at the Department of Health and Human Services.**

NCLR encourages SAMHSA to increase funding and outreach to Latino community-based organizations working on substance abuse prevention and treatment programs. SAMHSA's federal block grant funding enables states to maintain and enhance substance abuse and mental health services and help to improve the quality and availability of substance abuse prevention, addiction treatment, and mental health services nationwide.

■ **Calls on the Department of Justice to increase grants for comprehensive state and local prison drug treatment programs.**

A Justice Department study has

estimated that about 70% to 80% of state prison inmates are in need of substance abuse treatment, but only about 15% complete treatment programs before they are released. NCLR calls for widespread civil voluntary substance abuse treatment, education, and re-entry programs that would prepare inmates to function in society and prevent recidivism. Additional programs for former inmates are also needed to help them find jobs, housing, drug treatment, emotional counseling, and other critical services in their neighborhoods.

■ **Recommends passage of federal legislation requiring the mandatory collection and publication of disaggregated data by each state’s prosecutor’s office.** The data would disclose the charging, sentencing practices, and outcomes in those offices, and the racial/ethnic impact of those outcomes. Thus, for each case, the prosecutor should be required to document the race/ethnicity of the victim and defendant, the basis for the initial charging decision, the basis for the prosecutor’s bail recommendation, each plea offer made, accepted or rejected, and the basis for the

prosecutor’s sentencing recommendations.

In sum, NCLR seeks to promote a criminal justice system guided by the principles of fairness, justice, and equality. NCLR supports efforts to strengthen public safety, enforce laws, prevent crime, and provide effective alternatives for low-level, nonviolent offenders, especially substance abuse prevention and treatment programs. It also seeks to ensure that measures that are advanced to address criminal justice issues are effective and do not further exacerbate problems of discrimination and racial profiling, create a climate of distrust, or lead to increases in the Latino prison population.

Glossary*

Defendant – party against whom relief or recovery is sought in an action, or the accused in a criminal case.

Offender – party who violated U.S. criminal law.

Prisons – confined facilities owned by a state or federal government, for people serving sentences of a year or longer.

Regulatory offenses – violations of regulatory law and regulations in agriculture, antitrust, labor law, food and drug, and motor carrier.

Standard methods – sentence completion, parole, or probation.

* These definitions have been taken from *Compendium of Federal Justice Statistics, 1999*, Washington, DC: U.S. Department of Justice, May 2000.

Sources

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NCLR ISSUE BRIEFS

HISPANIC FAMILIES AND THE EARNED INCOME TAX CREDIT (EITC) ISSUE BRIEF

Brings attention to the importance of the EITC to Hispanic and other low-wage workers and outlines several important steps toward improving the credit for families.

ISSUE BRIEF No. 1

FINANCIAL SERVICES AND HISPANIC AMERICANS

Raises awareness of the financial service needs of the broader Latino community. The brief presents data that show lower participation by Latinos in critical asset-building areas like home-ownership and brokerage services. The brief highlights the barriers to financial services that many Hispanics face, including lower household income and discrimination on the part of the financial services industry.

ISSUE BRIEF No. 2

WELFARE REFORM, TANF CASELOAD CHANGES, AND LATINOS: A PRELIMINARY ASSESSMENT

Highlights changes in Temporary Assistance for Needy Families (TANF) caseloads nationwide between 1996 and 1999 and offers a preliminary assessment of welfare reform's impact on Latino families and children. The paper also outlines areas for additional research and provides policy recommendations for policy makers to consider during welfare reauthorization in 2002.

ISSUE BRIEF No. 3

THE LATINO VOTE IN THE 90's.

Examines Latino voting trends in the 1990's. In 1996, Hispanics were the only group of American voters whose turnout at the polls increased. In 1998, Hispanic voters provided the margin of victory in races across the country, especially in California and New York. With every election, this Hispanic mobilization is likely to increase; in coming years it is expected that the Hispanic vote will have a significant impact at all levels, including the Presidential election. **ISSUE BRIEF No. 4**

FINANCIAL INSECURITY AMID GROWING WEALTH: WHY HEALTHIER SAVINGS IS ESSENTIAL TO LATINO PROSPERITY

Examines the low savings rate of Latinos, what that has meant in terms of their wealth, and how it has negatively affected their overall financial security. The brief also discusses the barriers Hispanics face in saving and lays out promising strategies and recommendations for policy-makers and financial institutions to help increase Latino savings. **ISSUE BRIEF No. 5**

SAFE ROADS, SAFE COMMUNITIES: IMMIGRANTS AND STATE DRIVER'S LICENSE REQUIREMENTS

This brief explores the issues involved in current proposals to restrict immigrant access to driver's licenses, arguments in favor of increased accessibility, and steps that can be taken to ensure that driver's licenses remain authentic and prevent unauthorized drivers from making U.S. roads less safe. **ISSUE BRIEF No. 6**

INCREASING HISPANIC HOMEOWNERSHIP: STRATEGIES FOR PROGRAMS AND PUBLIC POLICY

Reviews the most recent data on homeownership and analyzes the factors associated with the low homeownership rate of Latinos. The brief also proposes specific recommendations and lays out a strategy for the private sector, community-based programs, and public policy to increase the number of Hispanic homeowners by two million over the next two decades. **ISSUE BRIEF No. 7**

THE NO CHILD LEFT BEHIND ACT: IMPLICATIONS FOR LOCAL EDUCATORS AND ADVOCATES FOR LATINO STUDENTS, FAMILIES, AND COMMUNITIES

This issue brief examines how the No Child Left Behind Act may impact Latino students, families, and communities. It paints a broad picture of what state and local educators must consider as they attempt to implement this legislation. Specifically, this paper provides a short, recent history of the standards movement in Congress, discusses challenges in implementing these reforms as they relate to Hispanic students, and provides recommendations for state and local policymakers. **ISSUE BRIEF No. 8**

