Lost Opportunities: The Reality of Latinos in the U.S. Criminal Justice System

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October 14, 2004
The Problem:

- U.S. criminal justice system practices systematically discriminate against Latinos.

- This conclusion comes from analysis of the government’s own official data sources, including the Bureau of Justice Statistics and the U.S. Census Bureau.
The Problem:

• Latinos are overrepresented at every stage of the U.S. criminal justice system – from arrest and detention to incarceration and parole.

• For example, Latinos comprised 13% of the general U.S. population in 2000 but 31% of incarcerated individuals in the federal criminal justice system.
Latinos men are imprisoned three times as often as Whites.

Source: U.S. Department of Justice. Imprisonment rates per 100,000 U.S. residents (2002)
Latinos, 13% of the general population, are overrepresented among prison, jail, and parole populations.

Latinos are detained before trial almost twice as often as non-Hispanics.

Source: Bureau of Justice Statistics (2002). 
*Compendium of federal justice statistics, 2001.*
Latinos are detained before trial almost twice as often as Whites.

Yet, Hispanic defendants are the least likely of all groups to have a criminal history.

Then why are Latinos so much more likely to be arrested and detained than non-Hispanic Whites?
Latinos are disproportionately arrested and convicted for low-level drug offenses.

- In 2001, Hispanics were arrested by the Drug Enforcement Agency (DEA) at a rate nearly three times their proportion in the general population.

- And Hispanics accounted for nearly half (43%) of the individuals convicted of drug offenses in 2000.
Latinos are not more likely to use drugs than their counterparts.

Yet, according to federal health statistics, drug use rates per capita among minorities and White Americans are remarkably similar.

Also, many states report that as many as 70-80% of individuals in prison for drug offenses were convicted for violations involving 50 grams or less of drugs.

Incarceration for drug offenses skyrocketed from 16% in 1970 to 55% in 2002.
Latinos are disproportionately charged with drug offenses. Because Latinos are disproportionately charged with drug offenses, and because prison has become the sentence of choice for such offenses, more and more Latinos are being incarcerated for low-level, nonviolent drug offenses.

Yet, of all racial/ethnic groups, Hispanics are the least likely to have the opportunity to participate in drug treatment programs.
Treatment Works

Research has shown that treatment for substance abuse is both less costly and more effective than incarceration for low-level, nonviolent drug offenders.
Annual Per Person Cost:

- Outpatient Non-Methadone: $1,619
- Drug Court: $3,038
- Non-Hospital Residential: $3,426
- Outpatient Methadone: $4,617
- Federal Prison: $23,539
- State Prison: $23,553
Treatment effectiveness and savings:

- Texas realized cost savings of $29.9 million as a result of diverting prison/jail-bound offenders into a multi-component state drug program.

- And Texas drug court participants had significantly lower two-year recidivism rates for arrest and incarceration.
Recidivism rates for drug court participants versus others (Texas).


*Racial disparities in the Texas criminal justice system.*
Treatment is Cost-Effective

- Within the first six months, California’s Proposition 36 diverted more than 12,000 individuals from prison to treatment. As a result, lawmakers are considering closing one or two of the state’s four women’s prisons.

- A study by the Rand Corporation found that for every dollar spent on drug and alcohol treatment, a state can save $7 in reduced crime costs.
Latinos are disproportionately affected by immigration policies.

- Arrests for immigration offenses increased **610%** over ten years -- from 1,728 in 1990 to 12,266 in 2000.

- Latinos constituted a vast majority of those arrested for immigration violations.

- More than 50 crimes – including misdemeanors such as shoplifting or fighting at school – can trigger deportation.
Yet, U.S. citizens are 10 times more likely than immigrants to be incarcerated for violent offenses.
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Latinos experience discrimination at each stage of the criminal justice process.
Discriminatory Practices with Arrest and Prosecution:

- Racial profiling
- Targeting “high crime” neighborhoods
- “Over-criminalizing” certain behaviors
Problems with Defense and Sentencing:

- Disproportionate reliance on publicly-appointed counsel
- Harsh “mandatory minimums” sentences
- Biased attitudes
Problems with Access to Services:

- Documents often not available in Spanish
- Many jurisdictions lack certified translators or do not have translators available when needed
- Staff working with Latinos often are not bilingual or culturally competent
Issues with Immigration Status:

• Legal counsel often have insufficient training in complex immigration law

• Recent immigration laws have resulted in increased mandatory detention
Conclusions:

• Latinos, including both adults and youth, are overrepresented and unfairly treated at every stage of the U.S. criminal justice system.

• Treatment versus incarceration for low-level, nonviolent drug offenders is a *smart* approach to crime. It reduces recidivism and costs and maintains community safety.
NCLR recommends that:

Congress address the unjust treatment of Latinos in the criminal justice system by enacting reforms to make the system:

- Fair, equitable, and accessible for Latinos
- Less costly and more effective than current practices