

Latino

VOICES:

The Impacts  
of Crime and

*Criminal Justice  
Policies on Latinos*



June 2014

 CALIFORNIANS  
FOR **SAFETY** AND **JUSTICE**

[safeandjust.org](http://safeandjust.org)

## ACKNOWLEDGEMENTS

This report is an extension of research conducted by the Tomás Rivera Policy Institute, an interdisciplinary community of scholars, students, practitioners and journalists across the University of Southern California. To view the full suite of research, visit: [SafeandJust.org/Latinos](https://SafeandJust.org/Latinos).

We also would like to acknowledge the **National Council of La Raza** for their ongoing collaboration on this report, as well as the input and partnership of a number of Latino elected officials and leading national and statewide Latino organizations (read more on page 27):

- Central American Resource Center (CARECEN-LA)
- Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA)

- Consejo de Federaciones Mexicanas en Norteamérica (COFEM)
- League of United Latin American Citizens (LULAC)
- Homeboy Industries
- Homies Unidos
- New Alliance for Public Safety
- Presente.org
- Salvadoran American Leadership and Education Fund (SALEF)

**Para leer en español: [SafeandJust.org/VocesLatinas](https://SafeandJust.org/VocesLatinas).**

### About Californians for Safety and Justice

Californians for Safety and Justice, a project of the Tides Center, is a nonprofit working with Californians from all walks of life to replace prison and justice system waste with common sense solutions that create safe neighborhoods and save public dollars.

Through policy advocacy, public education, partnerships and support for local best practices, Californians for Safety and Justice promotes effective criminal justice strategies to stop the cycle of crime, reduce over-reliance on incarceration and build healthy communities.



# *Table of* **CONTENTS**

Foreword.....	4
Executive Summary.....	5
The Impact of Crime on Latinos .....	8
Unequal Experiences in the Justice System .....	11
Latino Perceptions and Opinions .....	18
Recommendations .....	22
Partners for Change.....	27
Citations.....	29

# Foreword

## GOOD POLICY STARTS WITH SOUND RESEARCH

Our criminal justice system is profoundly important — and impactful. Criminal justice policies and professionals, in their efforts to keep us safe, affect not just victims and those accused or guilty of a crime but, ultimately, all of us.

We must understand how our policies and practices impact people if our justice system is to actually work — and work for all people. This includes identifying, understanding and eliminating disparities in how certain populations are treated.

In 2004, I was working for the National Council of La Raza, the nation's largest Latino civil rights organization. We partnered with the Center for Youth Policy Research and Michigan State University's Office of University Outreach & Engagement to publish a report that aimed to rectify the lack of research on inequity in the criminal justice system — and drive a meaningful conversation about how racial disparities in our justice system adversely affect Latinos and the communities they live in.

Today, many of the challenges we identified — from data collection to harsh treatment of Latinos in justice and immigration systems — persist. This takes on greater importance with Latinos now representing more of the U.S. population — and becoming the largest non-white population in the U.S. In fact, as of July 2013, Latinos in California equaled and began to exceed the number of non-Latino whites in the state.

That's why I'm grateful that Californians for Safety and Justice and the University of Southern California's Tomás Rivera Policy Institute are spotlighting the latest research on Latinos' experiences in the justice system, their disproportionate rates of victimization, their views on the system and justice policies and, importantly, recommendations on how to create a safer and smarter justice system.

This data is vital to better understanding Latinos — and, in effect, America itself. More importantly, it can shed light on what we must change, through policy, to improve outcomes and safety in our communities.

***Angela Arboleda***

*Former Senior Policy Advisor for Latino Affairs*

*United States Senate*



# Executive SUMMARY

## A DIVERSE AND GROWING ELECTORATE

Latinos are now the second-largest ethnic and racial group in the U.S., after whites, with a population of 50.5 million. Nearly one in every six people in America (16%) and nearly one in four children ages 18 and under (23%) are Latino.<sup>1</sup>

In California, the Latino population equaled the total number of non-Latino whites in July 2013,<sup>2</sup> and they will make up nearly half the state's population by 2050, according to a January 2014 report commissioned by the California Legislative Caucus.<sup>3</sup>

Within this label Latino\* is an incredibly diverse array of populations: Chicanos who have lived in California for centuries, descendants of immigrants from all over the world (from Mexico, Central and South America to Cuba and Puerto Rico) and new immigrants. Just as Latinos' origins vary, so too do their experiences in California and the U.S.

## THE CUMULATIVE DISADVANTAGE

Research to date has not differentiated between these diverse populations, which can misappropriate certain experiences and opinions amongst dramatically different people. But the data that does exist — specifically research on Latino victimization rates and their treatment in the justice system — paints a troubling picture of “cumulative disadvantage” for the safety of Latino individuals, families and communities.

Despite representing a similar portion of the state population as whites, Latinos are dramatically overrepresented as crime victims — and in our courts, jails and prisons. Research shows that Latinos receive harsher treatment in arrests, pretrial proceedings and sentencing than whites, even when charged with the same offenses.

By being both more vulnerable to crime as well as disadvantaged in every phase of the criminal justice system, Latinos are poorly served by current policies and practices. Matters are made worse by the special circumstances that arise when a large share of the Latino population is foreign born: Immigrants are actually less likely to commit crimes than U.S.-born individuals, yet law enforcement and criminal justice practices can be unnecessarily harsh for immigrants.

## NATURAL LEADERS OF REFORM

Because Latinos suffer unduly as victims of crime and yet often experience unequal treatment in the system, it is not surprising that surveys of Latinos reveal a desire for change. Many policies and practices do not align with Latinos' values, needs or preferences — or serve them well.

*By being both more vulnerable to crime as well as disadvantaged in every phase of the criminal justice system, Latinos are poorly served by current policies and practices.*

Because Latinos now represent a majority of Californians — and the state's fastest-growing voter bloc — more than ever before Latino voices could prove to make the difference on how the state reforms its criminal justice systems.

## WHAT RESEARCH EXISTS

The following is a compilation of what research exists to help drive these policy discussions. Many studies in this report come from a fuller suite of research gathered by the Tomás Rivera Policy Institute (accessible at [SafeandJust.org/Latinos](http://SafeandJust.org/Latinos)).

\* In the 1970s, the U.S. government established “Hispanic” as the term for people of Spanish descent. In California and the western U.S., “Latinos” has been used more commonly, and the federal government adopted that term as well in 1997. Since “Latinos” is increasingly replacing “Hispanic” throughout the country — and for consistency — we use Latino in this report, even if the research it cites referred to Hispanics.



Research to date paints a partial picture and reveals where more study is required to help policymakers more effectively reduce both crime and disparities. For example, past studies cover various time periods and geographies in the U.S. and often lack differentiation between various Latino populations and broader gaps in what criminal justice data is collected.

This must change; increased knowledge and understanding of *how* Latinos are affected by crime and the criminal justice system are critical in determining the best solutions to these troubling trends. Through this greater understanding and the ongoing work of Latino-led organizations working for change, we have the opportunity to create safer, more welcoming policies and communities.

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### DISPARITIES FOR AFRICAN AMERICANS

NOTE: Because Latinos now equal California's white population, this report primarily focuses on comparisons between those two populations. While some comparisons are made to African Americans and other races or ethnicities, it is important to note that oftentimes African Americans face greater disparities in the criminal justice system and higher rates of victimization.

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Key findings from this report include:

### THE IMPACT OF CRIME ON LATINOS

- Latinos are murdered in California at twice the rate of whites (5.1 per 100,000 compared to 2.4). The homicide rate is even higher for Latinos under age 30 (6.1), and Latinos — of any age — are more likely to have been killed by strangers in California than whites are (40.5% versus 26.1% of homicide victims).<sup>4</sup>
- The Bureau of Justice Statistics reports that from 1994 to 2011, Latinos were more likely to be shot than whites (but less likely than African Americans)<sup>5</sup> and had generally higher home burglary rates than white households (but lower than African-American households).<sup>6</sup>
- Latinos are more likely to experience multiple crimes: A 2013 survey of California survivors found that 43% of Latinos had experienced three or more crimes within the past five years, compared with 36% of crime survivors overall.<sup>7</sup>
- Evidence suggests that hate crimes against Latinos — from 1997 to 2008 — are on the rise,<sup>8</sup> and such crimes increase as Latino immigration increases.<sup>9</sup>

- Concerns over immigration enforcement may reduce the reporting of crime. In a 2012 survey in several southwestern counties (including L.A. County), 44% of Latinos said they would be hesitant to report being a victim of crime for fear that the police would ask them or others about immigration status.<sup>10</sup>
- After the trauma of a crime, survivors often need financial, medical and/or mental health assistance to recover and avoid negative outcomes — including repeat victimization. Services do exist, but a survey of Californian survivors revealed that less than half of Latinos were aware of the following options: assistance with victims' compensation application (34%), assistance with medical or other crime-related expenses (37%) and mental health counseling (41%). Of those who were aware, one-third (35%) found counseling difficult to access and nearly two-thirds of Latinos (64%) found the victims' compensation application difficult.<sup>11</sup>

### UNEQUAL TREATMENT OF LATINOS IN THE JUSTICE SYSTEM

- Studies discovered unequal treatment of Latinos awaiting trial. For example, a 2005 analysis of felony defendants in urban courts found that Latinos were less likely to be released on their own recognizance. When they were offered bail, amounts were set significantly higher (on average approximately \$25,000 higher) than African Americans or whites under similar circumstances.<sup>12</sup>
- When given the option to post bail, only 33% of Latino defendants were able to do so, compared with 47% of African Americans and 58% of whites. The same study found that 51% of Latinos were incarcerated pretrial, compared to 32% of whites.<sup>13</sup>

A 2005 analysis of felony defendants in urban courts found

Latinos were:



**Less likely to be released on their own recognizance**



**Issued significantly higher bail amounts\***

\*than African Americans or whites under similar circumstances.

*California Latinos cited the amount of money spent on prisons and the use of incarceration for*

*non-serious and nonviolent people as their top concerns with the justice system.*



- A 2004 analysis of rulings in urban courts across the country found that the likelihood of incarceration for Latinos is 44% higher than whites when convicted of property crimes and 53% higher than whites for drug crimes.<sup>14</sup>
- Latinos are deeply impacted by “mandatory minimum” sentences (required penalties for a conviction that limit judicial discretion): A 2011 report found that Latinos more than any other ethnic group were convicted of an offense receiving a mandatory sentence.<sup>15</sup>
- Similar to disparities found at the pretrial and sentencing periods, a 2009 study of 15 states’ data over a 15-year period found that while Latino rates of re-arrest and conviction after release from prison were similar to those of whites, Latinos were punished with incarceration at much higher levels than whites were.<sup>16</sup>
- Latinos make up two-thirds of the people listed in California’s gang injunctions database — a list compiled to alert law enforcement of a person’s involvement with a gang. Names can be added to this list without verification or someone’s knowledge, and individuals can then receive harsher treatment (including longer sentences) for an offense, even if it is unrelated to gangs.<sup>17</sup>

- Three-year recidivism rates for all prison releases in California were highest among whites (67.1%), African Americans (71.4%) and Native American/Alaska Natives (72.4%), yet only 59.5% for Latinos.<sup>18</sup>

## LATINO PERCEPTIONS AND OPINIONS

- In a May/June 2014 survey of 1,050 California Latino voters (63% born in the U.S., 37% outside), more than four in 10 (44%) believe that the state incarcerates too many people for nonviolent offenses and want officials to focus on policies less, not more, reliant on incarceration (47% vs. 40%).<sup>19</sup>
- Respondents believed the state should focus more on supervised probation and rehabilitation (51%), compared to those believing we should send more people to jail/prison (11%) or that the current mix is about right (32%).<sup>20</sup>
- Nearly eight in 10 Latinos (78%) support the state shortening longer criminal sentences and using the savings in prison costs to invest in education, health services and crime prevention.<sup>21</sup>
- In a 2001 survey by the Public Policy Institute of California, 65% of Latinos believed racial profiling by the police was widespread, compared with 82% of African Americans and 43% of whites.<sup>22</sup>
- National surveys have found that 77% of Latinos believe that enforcing immigration laws should be the “exclusive responsibility of *federal* authorities.” (Levels of concern are greater for those born outside of the country and/or who predominantly speak Spanish.)<sup>23</sup>
- A September 2013 survey by USC/Los Angeles Times found that California Latinos favor the use of county custody instead of state prisons (75%) and support more rehabilitation opportunities (65%).<sup>24</sup>
- By a ratio of two to one, Latino crime survivors in California want the state to focus more on providing supervised probation and rehabilitation programs than sending people to jail or prison.

## RECOMMENDATIONS

Based on the key findings in this report, we and our partners propose a variety of recommendations on page 22.

# THE IMPACT

## *of Crime on Latinos*

Latinos — especially young Latinos — face disproportionate risks of experiencing crime, including violence.

Latinos under 30 are 2.5 times as likely to be murdered than whites of the same age. Latinos are more likely to be threatened or attacked with a gun. And when Latinos report crimes, the report can be less likely to lead to an arrest than when whites are victims of the same crimes.

Making matters worse, data collection on Latino victimization has been insufficient and inconsistent over the decades. Until recently, studies focused more on

perpetrators than victims, and more on white and African-American victims primarily. Also, government data has sometimes failed to include “Hispanic” or “Latino” as a category, making it difficult to examine how crime has affected Latinos over time.

This section summarizes research about Latinos as victims in California and nationwide, including differences in victimization rates by ethnic or racial groups.



### *Adela's Story*

Growing up in Los Angeles, I experienced two worlds. From my schooling, marriage and time raising children, I experienced the warmth and protection of a loving, supportive family. But my neighborhoods were another story — riddled with crime and neglect.

These two worlds collided in 1998, when my sister-in-law's mother was murdered by a stray bullet from a drive-by shooting. I was very close to my sister-in-law, Laura, and I watched her grieve for years. Then, in 2007, the unthinkable happened: Laura was also murdered in front of her home, a case of mistaken identity by drive-by shooters.

I was devastated, but I worked through my grief to help raise Laura's four children — children struggling with the trauma of witnessing their mother's violent death.

I also grew angry. I was tired of the crime that affected my community — from car and home burglaries to attacks on our streets that my children, nieces and nephews too often witnessed. Even worse was the lack of response and support for families subjected to these crimes.

To turn the tide, I formed the nonprofit L.A.U.R.A. (Life After Uncivil Ruthless Acts) to connect families affected by crime to the services they need, leading youth groups and inspiring neighbors to create the change they want to see.

I am also joining efforts to educate policymakers about crime victims and what survivors need to recover. Many Latinos understand, from firsthand experience, how much crime impacts people. Now it's time their stories and their perspectives influence lawmakers and law enforcement working to keep our communities safe.

## HOMICIDE

The California Attorney General's Office<sup>25</sup> tells a troubling story about disparate homicide rates for Latinos. In 2011:

- 5.1 per 100,000 were murdered, roughly twice the 2.4 rate for whites (but far less than the rate for African Americans of 21.2).
- The homicide rate for Latinos under age 30 jumps to 6.1 per 100,000 people, compared to 2.4 for whites.
- Firearms were the cause of Latino murders 72.9% of the time, versus 54.2% for whites.
- Murdered Latinos were more likely to have been killed by strangers than were whites (40.5% versus 26.1%).

Homicide disparities vary across California. In 2011, three times as many Latinos were murdered than whites in Los Angeles and San Francisco counties, at a rate of 7.2 homicides per 100,000 Latinos. The rate for Latino homicides reached its highest levels in the state in Tulare County (16.7), located in the Central Valley.

Why the disparities? Researchers have consistently linked economic and social factors to Latino murder rates in U.S. cities, particularly because Latinos (more than whites) experience more negative social conditions, such as unemployment and lower incomes.<sup>26</sup>

## NONLETHAL CRIME

Latinos are also more likely to experience nonfatal crimes — violent or otherwise. The National Criminal Victimization Survey, which asks people across the U.S. about their experiences with crime, has generally found that Latinos have higher rates of experiencing “serious violent crime” (e.g., sexual assault, robbery and aggravated assault) than whites and Asian Americans (but lower rates than African Americans and American Indians).

In addition, the Bureau of Justice Statistics reports that from 1994 to 2011, Latinos were more likely to be shot than whites (but less likely than African Americans)<sup>27</sup> and had generally higher home burglary rates than white households (but lower than African-American households).<sup>28</sup>

And Latinos are more likely to experience multiple crimes: A 2013 survey of California survivors found that 43% of Latinos had been victimized three or more crimes within the past five years, compared with 36% of crime survivors overall.<sup>29</sup>

## Uniquely Vulnerable to Crime

*A recent study of shifts in crime against Latinos shows them to be more vulnerable in economic downturns than whites. During bad economic times between 1973 and 2005, robbery and aggravated assault by strangers increased more for Latino and African-American men than for white men.<sup>30</sup>*

*Evidence also suggests that hate crimes against Latinos — from 1997 to 2008 — rose,<sup>31</sup> just as Latino immigration increased.<sup>32</sup> From 2011 to 2012, the Bureau of Justice Statistics found that hate crimes against Latinos more than tripled.<sup>33</sup>*



## RELUCTANCE TO REPORT CRIMES — FOR IMMIGRATION AND OTHER REASONS

A 2013 survey of Californians found that one-third of survivors of robbery, property theft and assault did not report the crime to police, and one half of rape survivors did not. Another study found that white victims of sexual assault were twice as likely to report the crime as Latinos, and whites and Asian Americans were much more likely to report robbery than Latinos.<sup>34</sup>

Latino immigrants, especially those without documentation, face disincentives to reporting crime if they believe police will, in turn, question their or others' immigration status.

- In a 2012 survey in several southwestern counties (including L.A. County), 44% of Latinos said they would be hesitant to report being a survivor of crime for fear that the police would ask them or others about immigration status.<sup>35</sup>



# Immigrant Neighborhoods Can Reduce Crime

Latino immigration has been linked with a reduction in crime — known as the Latino or Immigrant Paradox.<sup>41</sup> The term “paradox” is used because some people assume that certain demographic features of a typical immigrant neighborhood (low incomes, poorer health outcomes, under employment of young males, etc.) could increase crime. In reality, that is not usually the case in Latino immigrant or other close-knit immigrant communities, for a variety of reasons. For example:

- **A 2013 study found that neighborhoods with larger numbers of Latino immigrants in Los Angeles led to less violent crime.**<sup>42</sup>
- **Researchers in 2010 reported that high concentrations of Latinos plus low household turnover led to reductions in violence in Los Angeles.**<sup>43</sup>
- **Another 2010 analysis of Latino homicides in San Diego found that higher numbers of immigrants corresponded to fewer murders<sup>44</sup> — a result echoed in El Paso, Texas, by another study.**<sup>45</sup>

This relationship may exist most in cities that have a longer history of Latino immigration and residency: Studies find more violent crime in cities that have been newer destinations for immigrants.<sup>46</sup>

Why would immigrant communities experience less crime? Some point to fears that reporting crime might expose someone’s immigration status, masking the actual numbers of crimes. But other researchers have speculated that tight-knit immigrant communities might buffer residents from victimization typically associated with economic and social disadvantage. To prove this theory, a study used language ability as a sign of cultural cohesion, finding that higher concentrations of people with limited English were associated with a lower rate of Latino homicides, including counties in California.<sup>47</sup>

- A 2009 study in Costa Mesa, California, found that Latinos would be less likely to report robbery or vandalism they have witnessed after local police began cooperating with federal immigration authorities.<sup>36</sup>

## DO LATINO SURVIVORS RECEIVE JUSTICE?

When crimes against Latinos are investigated by police, several studies suggest that they are less likely to result in arrests than similar crimes with white victims.

Two studies in Chicago found that cases with a Latino homicide victim were less likely to be solved than those with white victims.<sup>37</sup> A study in Ohio discovered that Latino homicides were less likely to be cleared than those with white or African-American victims.<sup>38</sup> Similarly, in Los Angeles (1990–1994), homicides of whites were more likely to be cleared than those with Latino victims.<sup>39</sup>

Research into nonlethal crimes also finds that, nationwide, arrests are less likely for cases with Latino rather than white victims for assaults and robberies.<sup>40</sup>

## BARRIERS TO VICTIMS’ SERVICES

After the trauma of a crime, survivors often need financial, medical and/or mental health assistance to recover and avoid negative outcomes — including repeat victimization. Services do exist, but a survey of Californian survivors revealed that less than half of Latinos were aware of these options: assistance with victims’ compensation application (34%), assistance with medical or other crime-related expenses (37%), and mental health counseling (41%). Of those who were aware, one-third (35%) found counseling difficult to access and nearly two-thirds of Latinos (64%) found the victims’ compensation application difficult.<sup>48</sup>

Specific examples of barriers Latino immigrants face in accessing support can be found in domestic violence crimes. Immigrant Latinas who faced intimate partner violence (largely in Southern California) who were interviewed in 2010 revealed that key barriers to seeking help included: language, immigration status, lack of financial security to leave and law enforcement attitudes.<sup>49</sup>

Language access also proved crucial in a home-visit intervention program in New Haven, Connecticut, where Latina participants were more likely to engage with police when interventions were conducted in Spanish.<sup>50</sup>

# UNEQUAL

*Experiences in the*

# JUSTICE SYSTEM

## Do Latinos receive the same treatment as whites and other racial and ethnic groups in the criminal justice system?

Researchers have attempted to measure such disparities for decades, and their findings have prompted policy debates that remain contentious and unresolved to this day. The growth of the Latino population has added several dimensions of complexity to the issue, such as disparities among people of color and between foreign- and U.S.-born Latinos.

In the past 20 years, data collectors have begun to separate Latinos from the overall white demographic, allowing for

**The Latino arrest rate was 1.5 times**

**higher than that of whites.**

more nuanced studies, but those need to be conducted more consistently to broadly capture a more accurate picture.

The following is a summary of notable research to date.

### THE SCHOOL-TO-PRISON PIPELINE

Well before they are adults, Latinos experience different treatment than their white peers — treatment that can increase their likelihood of involvement in the adult criminal justice system in the future. This is known as the “school-to-prison pipeline,” where punishments and the labels that come with punishment within the school system can make it harder for at-risk youth to stay on their right path with their peers.

For example, U.S. Department of Education data reveals that African Americans and Latinos make up 70% of students arrested or referred to law enforcement in the 2009–10 school year.<sup>51</sup> “Harsh school punishments, from suspensions to arrests, have led to high numbers of youth of color coming into contact with the juvenile-justice system and at an earlier age,” reads the report.

### DISPARITIES IN ARREST RATES

Discrimination faced at the arrest stage is significant because it is the first point of contact between an individual and the criminal justice system, setting the stage and tone for someone’s experiences and trust in the system.

A 2011 meta-analysis of 40 different reports found that suspects of color are more likely to be arrested than white suspects (but did not differentiate between Latinos and other people of color).<sup>52</sup> Another study found that police officers search Latino male drivers more often than white male drivers, and white officers conducted more searches than African American and Latino police officers.<sup>53</sup>

In California, a 2004 study found that the Latino arrest rate was 1.5 times higher than that of whites.<sup>54</sup>

### LATINOS JAILED BEFORE TRIAL

If you are ordered to stand trial for a crime, a court has several options on where you await trial: The court may release defendants on their own recognizance or with the posting of bail, or it can detain them until trial.



When making pretrial detention and release decisions, the court must weigh its responsibility to protect victims and the community against its responsibility to protect the defendant's rights to due process. Research shows that pretrial detention "may interfere with the defendant's ability to prepare an adequate defense and may lead to more severe sanctions upon conviction."<sup>55</sup>

Pretrial detainment and release decisions are based on the type of offense, but also the defendant's criminal history, employment status and ties to the community. Judges and prosecutors have great latitude in deciding individual cases, and some researchers have concluded that that judges' racial and ethnic bias can seep into pretrial decisions.<sup>56</sup>

One of two nationwide studies that discovered unequal treatment of Latinos pretrial was a 2005 analysis of felony defendants in urban courts: Latinos were less likely to be released on their own recognizance, and their bail was set at significantly higher amounts (on average approximately \$25,000 higher) than African Americans or whites under similar circumstances.<sup>57</sup>

Since Latinos often have fewer economic resources, they are less likely to post bail and therefore more likely to remain in jail — and possibly take a plea faster. For example, when given the option to post bail, only 33% of Latino defendants were able to do so, compared with 47% of African Americans and 58% of whites. Related to that, the study found that 51% of Latinos were incarcerated pretrial, compared to 32% of whites.<sup>58</sup>

In 2008, the U.S. Justice Department released a study on the probability of pretrial release for Latinos. Covering 15 years of data, the study found that Latinos and African Americans are almost always less likely to be eligible for pretrial release than whites — and that these disparities have been increasing over time.<sup>59</sup>

## LANGUAGE BARRIERS AND ACCESS TO COUNSEL

If someone has limited English skills, they can encounter major challenges throughout the justice system. That starts with their interactions with law enforcement and continues in court, compromising their right to a fair trial.

With no access to an interpreter, individuals with limited English proficiency cannot communicate with or be

## Average bail amount



understood by judges, clerks and sometimes even their own lawyers.<sup>60</sup> An examination of interpretation services in 35 states found that 46% of those states failed to require that interpreters be provided in all civil cases, and 37% failed to require the use of credentialed interpreters.<sup>61</sup>

In California, courts that receive federal funding are mandated to provide free interpreters in all court proceedings, but the Legal Aid Foundation of Los Angeles has filed complaints for many of its clients who have been denied access to court interpreters.<sup>62</sup>

Lack of English proficiency also can be a barrier to proper legal counsel, although this is also a problem for Latinos and low-income defendants in general. CHIRLA (the Coalition for Humane Immigrant Rights of Los Angeles) and its legislative partners (such as former California Assemblymember Felipe Fuentes) have worked to improve awareness of and opportunity for access to counsel. This is critical in ensuring fair deliberations when you consider that eight in 10 California cases are settled and that many people are unaware that "no contest" is recognized as an admission of guilt.<sup>63</sup>

## SENTENCING DISPARITIES

After a person is convicted of a crime, either by plea or trial, a judge or jury sets the sentence or punishment for that crime. Research reveals that racial bias can play a part in who is sentenced to what punishment.

By the end of 2005, Latinos became the largest ethnic group in California's prisons, reaching 41% in 2010 (followed

by African Americans at 29% and whites at 25%).<sup>64</sup> When accounting for the state's population, that translates to Latino males being incarcerated at 1.7 times the rate of white males.<sup>65</sup> (For every 100,000 adult white males in California, 671 were incarcerated in a California institution in 2010. Meanwhile, black and Latino adult males were incarcerated at a rate of 5,525 and 1,146 per 100,000, respectively.<sup>66</sup>)

Some may wonder if Latinos commit more crimes than whites as an explanation of the disparities. However, research paints a different picture. Research shows that Latinos and other people of color receive harsher sentences than whites convicted of the same crimes.

A 2004 analysis of rulings in urban courts across the country found that the likelihood of incarceration for Latinos is 44% higher than whites when convicted of property crimes and 53% higher than whites for drug crimes.<sup>67</sup>

Similar disparities exist within different Latino populations: Defendants who were here legally but not citizens were 30% more likely to be incarcerated than defendants who were citizens, and people without documentation were 44% more likely to be incarcerated than citizens.<sup>68</sup>

And a 2009 study compared the length of sentences for Mexican and non-Mexican Latinos, finding that Mexican Latinos received harsher sentences, and the harshness of sentences grew if undocumented Latinos were Mexican.<sup>69</sup>

*The likelihood of incarceration for Latinos is 44% higher than whites when convicted of property crimes*

*and 53% higher than whites for drug crimes.*



## DISPROPORTIONATELY SNARED BY “GANG INJUNCTIONS”

In 1982, in response to growing concerns about gang violence, Los Angeles County created the nation's first “gang injunction” — a civil court order against groups of people (i.e., a group restraining order). Intended to alert police to an individual's involvement in gangs and potential criminal

## DISHONORABLE TREATMENT OF



A contingent of “Banished Veterans” — U.S. military veterans — currently live in Rosarito, just south of the U.S.-Mexico border. These are men and women who came to the U.S. legally as children and went on to serve in America's armed forces (in Iraq, Afghanistan and elsewhere). But when they were arrested for minor crimes after their service, they were deported.

Between 1999 and 2008, more than 70,000 legal non-citizens enlisted in the U.S. military (comprising 4% of the armed forces). Less than half of those legal residents had finished the process of becoming U.S. citizens as of June 2010, making them vulnerable to deportation if convicted of a crime (which can range from domestic violence to drug possession to writing a bad check).

Immigration and Customs Enforcement officials say they don't keep track of how many such veterans are deported but estimate it ranges from hundreds to thousands.

Advocates opposed to these policies are working to change the aspects of the immigration act that allow legal residents to be deported for certain crimes. For example, Banished Veterans has launched a website, Facebook page and created a network of advocates and attorneys who provide legal and emotional support to U.S. veterans who face deportation. **For more information, visit: [Facebook.com/banished.veterans](https://www.facebook.com/banished.veterans).**



# Mandatory Minimums and Enhancements

Over the years, policymakers passed laws that have increased the length of prison terms for many people of color.

For example, “mandatory minimum” sentences are set penalties for a conviction that aim to deter certain crimes. Many of these were enacted as part of the “War on Drugs.” However, such requirements limit a judge’s discretion for each individual case. And a 2011 report found that Latinos more than any other ethnic group were convicted of an offense receiving a mandatory sentence.<sup>71</sup>

Another example is “enhancements”: additional charges that bring extra penalty (i.e., prison time). For example, California Penal Code 186.22 states that someone who is on the gang injunction list because of past gang affiliation (even if gang involvement is never proven) can receive additional time for that on top of the original offense. While aimed at deterring gang involvement, the enhancements have ended up snaring many Latinos in longer prison terms than they otherwise would serve for a particular offense.

Gun-related enhancements are also common. Example: If two people are arrested for buying drugs and one person has a gun in their possession (even if it is legally registered and not used in the transaction), both individuals can be charged with a gun enhancement.

activity, such injunctions create geographic “safety zones” where law enforcement can arrest, prosecute and incarcerate anyone on the injunction list for non-criminal activities (e.g., breaking a curfew, having a cellphone or beeper, associating with other individuals, etc.).

Critics raised concerns that these safety zones were not where the county was experiencing the most violence but rather in or near predominantly white and middle-class neighborhoods.

In 1997, L.A. County worked with state officials to expand statewide a database used to collect and access individuals’ personal information if they are alleged to be involved in a gang. Association with a gang member (even if a relative) was essentially criminalized, regardless of whether actual crimes are committed. Two-thirds of the people (66%) listed on the injunction database in 2012 were Latino.<sup>70</sup>

People can be added to the list without having been arrested or even accused of a crime. Law enforcement can use the list to question someone of any age, and youth as young as 10 are named in the database.

## THE DIFFERENCE A DAY MAKES

Between 1997 and 2007, 897,099 people were deported from the U.S. for committing crimes. Seven in 10 were for nonviolent offenses, and 20% of these people were in the U.S. legally.<sup>72</sup>

A lawful permanent resident in California can lose their green card and be deported if, within the first five years after being admitted to the U.S., they are convicted of a crime that carries a sentence of one year or more (even if no jail or prison time is served).

Currently, numerous California misdemeanors carry a yearlong sentence, and because federal deportation laws are based on 365 days, that means families are destabilized by deportations over many non-violent, non-serious misdemeanors, such as petty theft or driving on a suspended license.

If California law were changed to make those yearlong sentences be one day less (364 days), we would avoid triggering the high cost (to families and taxpayers) of immigration hearings and deportations. That common

## Leaving the “The Devil’s Workshop”

Javier, born in 1978 in Hayward, California, idolized his older brother growing up. At age 11, he began hanging out with his brother’s neighborhood friends. They were members of the “Northerner” or Norteño gang, and Javier eventually joined.

He began getting into drugs, drinking and criminal activity at age 12 — and ended up in and out of the juvenile justice system until adulthood. Through his late 20s, he was arrested for reckless driving, resisting arrest, car theft, drug possession, receiving stolen property and numerous parole violations.

For these crimes, Javier has served a total of eight years in various jails and state prisons, including Folsom Prison and San Quentin. In 2004, Javier received a visit in jail from the brother he always looked up to. “There was another way to live,” his brother told him — he needed to come clean. Javier agreed to attend a drug rehabilitation meeting, after which he knelt down and promised to “make it right with God.”

In 2005, Javier enrolled in the six-month program at the Seven Step Foundation, a nonprofit that uses mentorship to help people turn their lives around. A supervisor there encouraged Javier to go back to school, so he enrolled and completed a six-month internship at the CAARR Institute (California Association of Addiction Recovery Resources).

Such community-based intervention programs are proving pivotal to changing lives and reducing the drivers of crime, but too few of them exist in or outside of jails. Javier feels fortunate, as he reflects on his past and looks forward to his future.

Today, Javier has a family and has been clean and sober for more than eight years. He is a successful Certified Addiction Specialist and Addiction Counselor in Oakland, working for the Seven Step Foundation and with people on probation.

“I want to have a good impact on youth — because the streets are the devil’s workshop. I should have stayed in school.” He teaches youth to “put your consequences in front of you before you act. Play the whole tape before you act.”

**“There was another way to live,” his brother told him — he needed to come clean.**

sense reform was identified by the Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA) as a key priority in 2014 to partner with legislators and other organizations (including Californians for Safety and Justice) to achieve.

### RECIDIVISM

Similar to disparities found at the pretrial and sentencing periods, a 2009 study of 15 states’ data over a 15-year period found that Latinos’ rearrest and reconviction levels were similar to those whites, but Latino *reincarceration* levels for those convictions were much higher (the study controlled for other influential factors such as a one’s prior record and offense severity).<sup>73</sup>

This study suggests justice officials might stereotype Latinos as more dangerous or a flight risk, but other research shows that despite higher levels of reincarceration, recidivism rates in California are lower for Latinos than for African Americans and whites. Three-year recidivism rates for all releases in California were highest among whites (67.1%), African Americans (71.4%), and Native American/Alaska Natives (72.4%), yet only 59.5% for Latinos.<sup>74</sup>

Data from the California Department of Corrections and Rehabilitation for fiscal year 2006–2007 also reveals that Latinos also are among the lowest to recidivate during the first, second and third year after their initial release.

# Judges Focus on Behavior Change, Not Just Incarceration

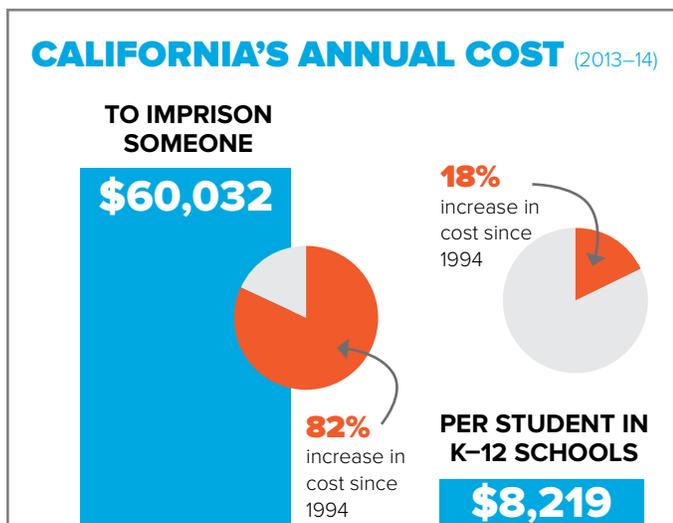
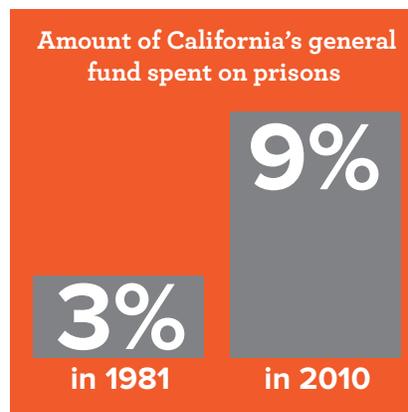
Once someone pleads or is found guilty, judges have varying discretion in how to hold the person accountable. There are an increasing number of courts that use a collaborative approach (with the prosecution, defense and community and government service providers) to determine the most effective forms of accountability and programming for certain individuals.

Specialty courts focus on specific issues certain people face, ranging from veterans and the homeless to drug addiction and mental illness. More and more judges are recognizing that this tailored approach to an individual's risk factors and needs is not only better at changing behavior but also a way to reduce costs and congestion in the court system.

An example is the Collaborative Courts of San Joaquin — and a key partner in its efforts is a community-based nonprofit that has a deep understanding of the people, including Latinos, who are referred to the court. Fathers and Families of San Joaquin, based in Stockton, is often tapped to provide everything from tattoo removal to fatherhood classes to job and housing placements.

These programs combined with other forms of accountability (e.g., supervised probation, community service, victim restitution, drug/alcohol treatment, etc.) are helping counties to reduce costly uses of their jails — and reduce recidivism rates.

## BY THE NUMBERS: *The High Cost of High Incarceration Rates*



For sources, visit: [SafeandJust.org/costs](http://SafeandJust.org/costs)

# Health Problems Require Health Solutions

*Disparities in Latinos' access to health and health outcomes may appear to be a separate body of research, but it has a definite, although overlooked, connection to Latino safety and their experiences with the criminal justice system.*

There is growing recognition by policymakers and law enforcement that pervasive health problems (e.g., mental illness and drug/alcohol addiction or abuse) require *health* solutions to change behavior. Latinos are no different, yet they experience greater obstacles to recovery.

Among state prisoners (throughout the U.S.), nearly half of Latinos (46%) were found to have a mental health problem. That number reaches 51% for Latinos in county jails.<sup>75</sup> One potential reason is that among Latinos (outside of the justice system) with a mental disorder, fewer than one in 11 contact a mental health specialist. Even fewer immigrants seek help.<sup>76</sup>

Latinos are also identified as at high-risk for substance abuse.<sup>77</sup> Additionally, they make up half of all DUIs in California and more than half of arrests for powder cocaine and marijuana.<sup>78</sup> Yet Latinos often access treatment at far lower numbers than other ethnicities. One study revealed that Latinos in federal prison were half as likely to receive drug/alcohol treatment than whites, and treatment numbers of Latinos in state prisons was almost as disproportionate.<sup>79</sup>

Meanwhile, California has failed to adequately fund treatment: A fund established by voters in 2000 for substance abuse treatment has not been funded since 2006, only 10 of 58 counties have residential drug treatment facilities,<sup>80</sup> and the state's cuts to mental health programs 2009–2011 were the largest in the U.S.<sup>81</sup>

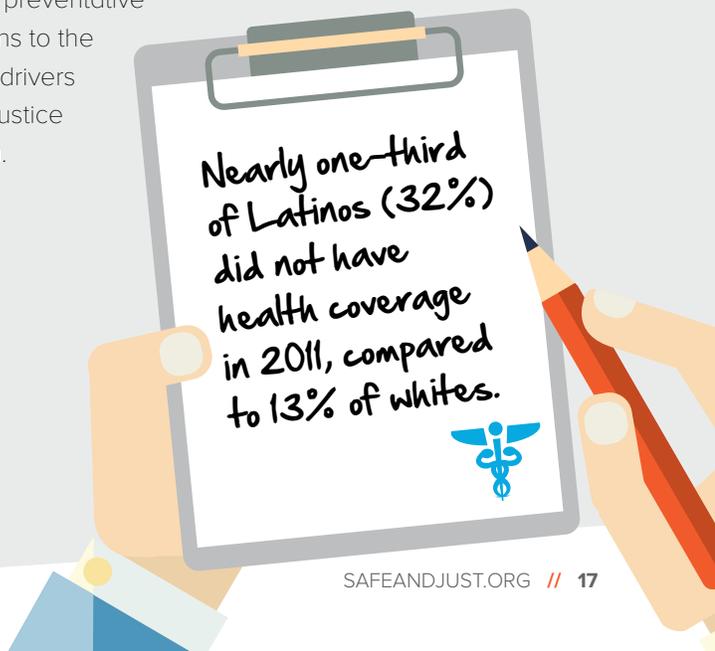
Reducing health problems starts with access to health care. Latinos represent the largest uninsured ethnic group in the U.S.: Nearly one-third (32%) did not have health coverage in 2011, compared to 13% of whites.<sup>82</sup> The implementation of federal health reform will increase the number of Latinos eligible for coverage, but many will still fall through the cracks.

That includes incarcerated Latinos, who are ineligible for state or federal health coverage during imprisonment. Some prisons and jails offer mental health and addiction treatment programs, but their numbers and quality vary widely.

This is especially true in California county jails, which now have greater responsibility for local justice populations — including large numbers of Latinos. Without quality treatment that addresses the health factors that drive certain behaviors, counties increase the likelihood of seeing the same people cycle in and out of their jails.

Regardless of setting, there is also a need to increase the cultural competency of health care, including having more Latino and/or Spanish-speaking providers. A national survey revealed that out of 596 licensed (active) psychologists who were members of the American Psychological Association, only 1 percent were Latino.<sup>83</sup> Similarly, the Center for Mental Health Services calculated in 1999 that there were only 29 Latino mental health professionals for every 100,000 Latinos in the U.S.

Unless the gaps in coverage and cultural competency are closed, Latinos will continue to face steeper barriers to finding preventative solutions to the health drivers in our justice system.



Nearly one-third of Latinos (32%) did not have health coverage in 2011, compared to 13% of whites.



# Latino Perceptions AND OPINIONS

Surveys find that Latino opinions align with Californians at large, though their views tend to fall between those of whites and African Americans (who are more polarized). And their attitudes are uniquely influenced by immigration (e.g., including views on the intersection of immigration and justice policies and differences between U.S.-born and foreign-born Latinos on broader justice issues).

California Latinos in recent polls show a clear interest in changing the criminal justice system, including reducing the number of people imprisoned and increasing alternatives (e.g., supervised probation and mental health or drug treatment for people convicted of nonviolent offenses).

Such opinions could prove to be a catalyst for more rapid action on reforming current practices and policies. While there are still major gaps in consistent polling of Latinos nationwide, the following are key findings and trends gathered from a variety of existing public opinion surveys of Latinos (especially in California).

## GROWING SUPPORT FOR PRISON AND JUSTICE REFORMS

- In a May/June 2014 survey of 1,050 California Latino voters (63% born in the U.S., 37% outside), finding:<sup>84</sup>
  - More than four in 10 (44%) believed that the state incarcerates too many people for nonviolent offenses.
  - 47% want officials to focus on policies less, not more (40%), reliant on incarceration.
  - Respondents believed the state should focus more on supervised probation and rehabilitation (51%), compared to those believing we should send more people to jail/prison (11%) or that the current mix is about right (32%).
  - Nearly eight in 10 Latinos (78%) supported the state in shortening longer criminal sentences and using the savings in prison costs to invest in education, health services and crime prevention.

A May/June 2014 survey found that

### California Latino voters supported:

REDUCING LONG SENTENCES

78%

GIVING JUDGES FLEXIBILITY INSTEAD OF MANDATORY MINIMUMS

76%

USING COMMUNITY SUPERVISION, NOT JAIL, FOR LOW-RISK PEOPLE AWAITING TRIAL

69%



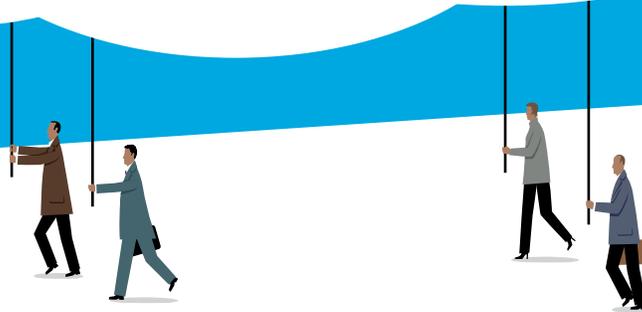
# Latino Crime Survivor Views Dispel the Stereotypes

In June 2013, Californians for Safety and Justice released a report with the first-ever survey data from California crime victims.<sup>88</sup> The findings dispel the myth that survivors prioritize harsh punishments, with Latinos responding this way:

- **More believed California sends too many people to prison than too few.**
- They believe, by a two-to-one margin, that prisons teach people how to be better criminals or have no impact versus rehabilitating them.
- **By a ratio of two to one, they wanted California to focus more on providing supervised probation and rehabilitation programs than sending people to jail or prison.**
- 83% thought California should invest more money in education as opposed to prison (compared with 76% of white victims).
- **78% wanted to invest more in mental health and drug and alcohol treatment than in jails and prisons (compared to 71% of whites).**

- Three in four (76%) supported giving judges flexibility in sentencing for individual cases instead of having mandatory minimums.
- Nearly seven in 10 (69%) also supported allowing low-risk people awaiting trial to be supervised in the community instead of being jailed.

- An April 2014 survey by Latino Decisions of 400 California Latinos found that seven in 10 (69%) believed California should minimize penalties for drug possession, and eight in 10 (79%) felt that treatment should be the focus for such offenses.<sup>85</sup>
- In a July 2013 survey by David Binder Research, California Latinos cited the amount of money spent on prisons and the use of incarceration for non-serious and nonviolent people as their top concerns with the justice system, and 78% supported providing treatment for the mentally ill instead of jailing them.<sup>86</sup>
- A September 2013 survey by USC/Los Angeles Times found that California Latinos favored using county custody instead of state prisons (75%) and providing more rehabilitation opportunities (65%). These levels of support were lower than those of African Americans but matched those by whites and Asian Americans.<sup>87</sup>



## SUPPORT FOR SAFER GUN LAWS

Latinos are more likely to be injured or killed by guns than whites,<sup>89,90</sup> yet they are less likely to own guns compared to whites (18% versus 33%).<sup>91</sup> Considering these numbers, it is perhaps no surprise that in a 2013 poll of Latino voters nationwide, a majority supported requiring background checks for potential purchasers; creating a national database of gun owners; banning semi-automatic and assault weapons; and prohibiting people with mental illness from owning or buying a gun.<sup>92</sup> Previous surveys show higher support for gun restrictions among Latinos than among whites.<sup>93</sup>

## PERCEPTIONS OF POLICE

The evidence shows that Latinos generally hold less positive views of local law enforcement than whites, characterized by tepid confidence, low job ratings and concerns about discrimination. A 2009 national study echoed previous reports finding that Latinos' confidence in the justice system to adequately police their communities is closer to the low levels expressed by African Americans than to the high levels expressed by whites.<sup>94</sup>

A 2003 study conducted for the Department of Justice in Los Angeles found that 80% of Latinos rate police officer behavior positively, compared to 88% for whites and 68% for African Americans. The study also reported that Latinos held the lowest rating of job approval for police at 67%.<sup>95</sup>

One reason may be the perception of excessive force used by police against Latinos: A federal study found that Latinos reported being a victim of police force at twice the rates of whites in 2005.<sup>96</sup>

The Latino population is not homogeneous, however; confidence levels were even lower among youth and immigrants.<sup>97</sup>

## PERCEPTIONS OF RACIAL PROFILING

The research also makes it clear that Latinos' perceptions of law enforcement is tied to perceived bias and profiling:

- An April 2014 survey by Latino Decisions of 400 California Latinos found that eight in 10 felt that racial disparities in drug enforcement is a serious problem.<sup>98</sup>
- A 2001 study in California on racial attitudes found that 65% of Latinos believed racial profiling by the police was widespread, compared with 82% of African Americans and 43% of whites.<sup>99</sup>
- A 2000 study of ethnicity and views of legal authority conducted in Los Angeles and Oakland found that Latinos (along with African Americans) report unfair treatment by the police at higher levels than whites.<sup>100</sup>
- A national 2004 poll asked if being stopped at airport security checkpoints was a widespread occurrence. More Latinos answered yes (54%) than any other ethnic group (48% of African Americans and 40% of whites).<sup>101</sup>
- Interestingly, Latinos more than whites (38% to 24%) believed that racial profiling is justified when shoppers in malls or stores are questioned about possible theft.<sup>102</sup>

## THE IMPACT OF POLICE ENFORCING IMMIGRATION LAWS

In 1996, Congress expanded the role of state and local law enforcement in immigration matters. This change appears to have affected Latino trust in and cooperation with local police.

A 2013 survey in several southwestern counties (including L.A. County) found that nearly four in 10 (38%) Latinos felt like they were under more suspicion since 1996. Forty-four percent of all Latinos (regardless of immigration status) were less likely to contact police officers if they had experienced a crime (out of fear that law enforcement would ask them or those around them about their immigration). The author argues that increased police involvement with immigration enforcement leads to Latinos' isolation and disconnectedness from police, withdrawal and diminished sense of public safety in their communities.<sup>103</sup>

In light of these fears, it is not surprising that national surveys have found that 77% of Latinos believe that enforcing immigration laws should be the “exclusive responsibility of federal authorities.” (Levels of concern are greater for those born outside of the country and/or who predominantly speak Spanish.)<sup>104</sup>

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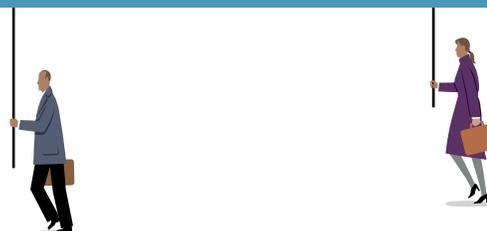
### NOTE

In October 2013, California Governor Jerry Brown signed Assembly Bill 4 (the TRUST Act) to limit the discretion of law enforcement in detaining undocumented immigrants for potential deportation, except for some crimes.<sup>105</sup> The precedent-setting legislation states that immigrants in this country illegally would have to be charged with or convicted of a serious offense to be eligible for a 48-hour hold and transfer to U.S. immigration authorities for possible deportation.

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Because Latino public opinion can change — especially in reaction to changing law enforcement practices and criminal justice policies — more updated public opinion data is needed to determine how Latinos currently perceive police and the justice system, and how they believe each could be improved.

**77%** of Latinos surveyed believe that enforcing immigration laws should be the “exclusive responsibility of federal authorities.”





## Deldelp's Story

### The Wrong Priorities Make Us Unsafe

In 2005, my family was rocked when my aunt was murdered. The shock and anguish we felt did not surprise people, but law enforcement and others were taken aback when they heard that we wanted to *help*, not punish, the person responsible.

That's because the person who killed my aunt was my cousin, her son, after he suffered a mental breakdown. We learned — for the first time — that he had schizophrenia and needed treatment.

My family was able to eventually convince the District Attorney to drop the death penalty charge and instead place the young man in a mental health facility, where he remains today.

The entire experience was an eye-opener on many levels, forever changing my views of the justice system. The early disregard for my cousin's schizophrenia epitomizes how little emphasis our system puts on mental health treatment as a more appropriate tool for changing behavior. And immediately after the tragedy, law enforcement's emphasis was on punishment and retribution, not what the victim's family wanted or needed.

I also have been discouraged at how much I see state and local governments spending on incarceration as the primary response to crime. Too many other proven methods for creating safe neighborhoods are fighting for public funds, yet we pour more and more taxpayer dollars into prisons and jails that don't seem to make anyone better.

Survivors of crime are not monolithic in their views on accountability, and neither are Latinos. But I know from speaking with family, friends, colleagues and other survivors that a consensus is growing around the need to shift our focus away from incarcerating nonviolent people to more effective — and less expensive — strategies for keeping our neighborhoods safe.

***The early disregard for my cousin's schizophrenia epitomizes how little emphasis our system puts on mental health treatment as a more appropriate tool for changing behavior.***

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To address many of the problems revealed by existing research on Latinos – as well as identified gaps in research – Californians for Safety and Justice makes the following recommendations.

## Expand and standardize data collection and analysis

Based on gaps in or challenges with past research on Latinos, more intentional data collection is needed to tell a fuller, more nuanced story of the myriad Latino populations and their needs. For example:

- **Population subsets:** Someone’s experience with crime and the justice system – and their subsequent opinions about each – varies based on many demographic factors. Surveys and other studies that use “Latinos” as a catchall will inevitably tell a partial story. Future research on Latinos should breakdown statistics and recommendations based on how long participants have lived in the U.S., language proficiency and other factors.
- **Experiences with crime:** Research on the relationship between immigration and Latino experiences with crime is sparse – or insufficiently structured. The National Crime Victimization Survey, conducted annually by the Bureau of Justice Statistics, is a critical source of information, and yet its lengthy questionnaire does not include a question about where the respondent was born.
- **Arrest rates vs. convictions:** California provides data on arrest rates by type of crime and racial or ethnic group, but data are lacking on *conviction* rates by types of crime and different populations. There is a need for comparative data on the first time someone is arrested or convicted.
- **Racial profiling:** To truly understand the level of racial profiling that takes place in a local jurisdiction or statewide, consistent data must be collected about stops, searches and arrests. Lawmakers should consider how legislation could ensure that such data is compiled to inform more effective, fair policing practices.
- **Pretrial detention:** Further research studies with access to court records in California could be conducted to examine disparities between Latinos and other ethnic groups, as well as analyze the effects of immigration detainers on pretrial detainment for Latinos.
- **Sentencing:** There is a void in sentencing data for Latinos in California. Requesting sentencing data from California courts would make it possible to conduct a study that compares sentences between Latinos and non-Latinos. Factoring in the effect of immigration policy on the effects of sentencing lengths would also be crucial.
- **Community reintegration:** Although research exists on how effectively Latino youth reintegrate into the community, there is a lack of documentation on how well Latino adults are reentering society.



## Expand language services and cultural competency

For Latinos with limited English proficiency — and coming from a variety of different backgrounds and experiences — it is important for the justice system to provide quality services in Spanish (and other indigenous languages spoken by Latinos) and that recognize different cultural needs. For example:

- **Language needs:** While California’s Constitution states that a person “unable to understand English who is charged with a crime has a right to an interpreter throughout the proceedings” (Article 1, Section 14), the state must keep pace with population growth by providing an adequate number of certified interpreters to meet the needs of defendants. This includes providing appropriate funding to meet the constitutional requirement, along with additional training for law enforcement, legal and medical professionals regarding best practices for identifying the need for language services — and connecting people to those services.
- **Community-based organizations:** Many counties have not-for-profit organizations (including faith-based ones) working to improve safety, health outcomes and success rates for people reintegrating into society after incarceration, and to support crime survivors. These include a range of reentry supports, housing assistance, pathways to employment and mental health and substance abuse services. Too often these organizations do not receive enough resources to scale up their work to meet community needs. Often they are also not fully engaged as partners by local law enforcement and government agencies. While philanthropic organizations can increase their investment in these organizations, local governments can also contract with these providers to more directly and effectively reach certain populations. And regardless of funding, government agencies can develop more collaborative models that integrate community-based prevention efforts.



## Improve supports and services for Latino survivors of crime

Funding and services for crime victims already exist in California, but problems with their restrictions and accessibility must be addressed to better help people recover from the trauma of their experiences. For example:

- **Culturally competent partnerships:** In order to provide survivors with services and to help law enforcement solve crimes, the relationship between law enforcement, service providers and the Latino community must be strengthened. We recommend increased training and culturally competent community outreach by victim services agencies and law enforcement, including partnerships with local organizations.
- **Spanish-language options:** State and local services for survivors of crime (including the California Victims Compensation Program) must include Spanish-language materials and speakers, as well as clear standards to ensure cultural competency. Otherwise many survivors of crime will be unaware of existing services, unclear on how to utilize them and can be more likely to experience financial and/or psychological hardship.



- **Victim compensation policies:** Currently the California Victims Compensation Program (Cal VCP) has certain limitations on whether an individual or family can receive state-allocated funds after a crime. This includes someone on parole or probation who is victimized (unrelated to their original offense or anything else they have done); women who have been assaulted (if they have

been convicted of prostitution); and family members of someone on parole who is murdered (who normally would be eligible for assistance with burial costs). Cal VCP has shown a willingness to update some of their requirements to help more crime survivors, but much more can be done to remove unnecessary barriers to existing supports.



## Solve health problems with health solutions

Many people in California's justice system — including Latinos — have underlying mental health and/or substance abuse problems. We can better solve these problems through the following:

- **Access to drug treatment:** Many people in jail could more effectively address health problems and change behavior in a residential program that addresses substance abuse. With the implementation of the Affordable Care Act, California has an opportunity to increase the use of federal Medi-Cal dollars to fund drug treatment programs as an effective alternative to jail, specifically if current barriers are removed to allow more people to be covered by Medi-Cal in residential treatment centers. Local and state jurisdictions should do an analysis of treatment options available and the needs of specific populations.
- **Culturally competent treatment providers:** The state and counties should provide outreach and support to culturally competent treatment organizations with strong ties to Latino communities that are interested in becoming certified by the state to provide and be reimbursed for drug treatment covered by Medi-Cal. In contracting for drug and mental health treatment, counties should prioritize providers with a record of success serving diverse, multilingual patients.

- **Funding proven programs:** Since 2011, the California state government provides counties with more funding than ever before (to spend as they see fit) on local justice matters. County Boards of Supervisors should evaluate how to allocate more of these funds to local programs that have successfully addressed health drivers of crime and disparities between different ethnic and racial populations.
- **Health coverage enrollment for justice populations:** In 2013, California enacted Assembly Bill 720, which provides counties new guidance and opportunities to enroll people on probation and exiting jail in Medi-Cal (covered by federal dollars) in order to save money and provide access to care that can, ultimately, reduce recidivism. Probation and sheriff departments in California counties should take advantage of this public safety and fiscal opportunity to establish enrollment protocols — with Spanish-language support.





## Reduce disparities in arrest and conviction rates

Policies and protocols can be examined and enhanced in law enforcement agencies, courts and elsewhere to prevent unnecessarily harsh or unfair treatment of Latinos. For example:

- **Racial profiling:** Some law enforcement agencies have strong definitions of what constitutes racial profiling—and training on how to avoid the practice. Such standards should be in place in jurisdictions across the state and nation. Additional best practices in policing Latino communities across the country include Spanish-speaking liaisons (if officers do not speak Spanish), specific

education and training of officers, Spanish hotlines and increased officer participation in community events.

- **Risk assessments:** When someone is arrested, determining their individual risk as they await trial (to reoffend, to show up to court, etc.) is key to managing jail space and minimizing undue disruption to families. Consistent use of proven risk-assessment tools can help local jurisdictions effectively manage their jail populations while also preventing unnecessary or biased decisions from disproportionately affecting Latinos.



## Reduce disparities in sentencing

Current and proposed legislation pertaining to criminal sentences need to be reexamined — for the entire population but specifically as it pertains to impacts on people of color. For example:

- **Racial Impact Assessments:** Iowa, Connecticut and Oregon have laws requiring racial impact statements before changing or adding criminal laws, as a way to guard against unintended consequences for people of a certain race or ethnicity. A racial impact statement is a nonpartisan analysis that examines the impact of justice policy changes on racial and ethnic populations. For example, when new legislation is proposed in California, such an analysis could be conducted by an existing state agency (e.g., the State Interagency Team Workgroup to Eliminate Disparities & Disproportionality) and reported back to legislative committees on the potential adverse effects of the proposed bill.
- **The Gang Injunction list:** Despite its intention, the list of current, past or alleged gang-involved individuals used by law enforcement and prosecutors has unfairly snared too many people, especially Latinos. It is too easy for someone to be added to this list — including

children as young as 10 — and too hard to avoid its harsh consequences if you commit an unrelated offense. A task force of community members and local officials should be formed to evaluate how to reform this tool.

- **Mandatory minimums:** The California penal code includes mandatory minimum sentences that remove judicial discretion when considering each individual's offenses. For example, this can be the case for drug offenses, with each charge automatically carrying an additional penalty, even when the offenses are nonviolent in nature. Judges and defendants — and taxpayers — deserve more flexibility so that sentences are based on what will change an individual's behavior and keep communities safe.
- **Enhancements:** Currently the penal code can add “enhancement” charges to an offense to increase the ultimate penalty. For example, if someone is arrested for one offense but is also a member of a gang, a gang enhancement can add to the severity of the punishment, even if it is unrelated to the original offense. Similarly severe enhancements can be added for gun possession. To reduce overly excessive sentences that disproportionately affect Latinos, lawmakers should reevaluate any outdated or ineffective enhancements in the penal code.





## Lessen the impact on and role of immigration status

For the portion of the Latino population that has immigrated to the U.S., there are a variety of immigration and law enforcement policies — or lack of them — that impact how welcoming (and fair) those communities and the agencies that serve them are. We can improve such conditions and policies through the following:

- **365-day deportation triggers:** Some California misdemeanors can carry a year-long sentence, and federal immigration laws dictate that non-citizens (including legal residents) with a 365-day or longer sentence can be deported, even for non-serious, nonviolent offenses. Because of the high cost that immigration hearings and deportations carry for families and taxpayers, policymakers should explore solutions proposed by CHIRLA and others to reduce these sentences by a single day.
- **Right to Counsel at detention centers:** People charged with criminal offenses in the U.S. are allowed (by law and regardless of their immigration status) legal counsel for their defense. This is not the case for someone detained for immigration reasons. Similar to our criminal justice system, policymakers should explore requiring a Right to Counsel at detention centers so that people charged with immigration violations fully understand what they are accused of, the consequences and their options are during any proceedings.

- **Immigration vs. law enforcement:** While California has advanced previous legislation to reduce overlap between local law enforcement and immigration priorities, there is still fear and mistrust of police among immigrant communities. The state could address these fears by prohibiting local authorities from entering into agreements with the Department of Homeland Security regarding immigration-related matters.
- **Conflicts with federal law:** Currently legal residents convicted of certain non-serious, nonviolent crimes can be deported, including those who have served in the U.S. military. We believe that discretion can be used to avoid deportation and hold people accountable more effectively and fairly without destabilizing their homes and lives. This, however, would need to be rectified within federal law.



*“The data available on Latinos and the justice system is, ultimately, a call to action. It shows the clear need for more consistent research as well as deeper analysis of the ripple effect current practices have on communities. More importantly, it is a compelling opportunity for leaders and advocates to collaborate on smarter justice policies — for all of us.”*

— DELIA DE LA VARA, VICE PRESIDENT, CALIFORNIA REGION  
NATIONAL COUNCIL OF LA RAZA

# PARTNERS for Change

The following organizations are not only leaders in their respective fields but also committed to collaborating on meaningful change for the lives of Latinos — in their communities and in the criminal justice system. We appreciate and applaud their leadership, as well as others who join in efforts to create safer neighborhoods and fairer justice practices.

**THE CENTRAL AMERICAN RESOURCE CENTER (CARECEN-LA)** was founded by a group of Salvadoran refugees whose mission was to secure legal status for the thousands of Central Americans fleeing civil war. Over the past 25 years, CARECEN has transformed itself from a small grassroots group to the largest Central American organization in the country. Its clients have similarly changed from refugees fleeing war to families who have put down roots in the U.S. and who are building vibrant lives for themselves and their children.

**THE COALITION FOR HUMANE IMMIGRANT RIGHTS OF LOS ANGELES (CHIRLA)** was formed in 1986 to advance the human and civil rights of immigrants and refugees in Los Angeles; promote harmonious multi-ethnic and multi-racial human relations; and through coalition-building, advocacy, community education and organizing, empower immigrants and their allies to build a more just society.

**CONSEJO DE FEDERACIONES MEXICANAS EN NORTEAMÉRICA (COFEM)** is a nonprofit creating opportunities for Latino Immigrants in North America, with a special focus in California. COFEM was

established by a league of organizations to promote the advancement of the Latino community through public policy advocacy, community organizing, leadership and organizational development, educational and cultural programs, and bi-national economic development.

**HOMEBY INDUSTRIES** is the nation's largest gang-intervention program. For 25 years, it has provided hope, training and support to men and women who were formerly involved in gangs and/or incarcerated, allowing them to redirect their lives and become contributing members of the community.

**HOMIES UNIDOS** is a nonprofit gang-violence-prevention and intervention organization with projects in San Salvador, El Salvador and Los Angeles. For 10 years, Homies Unidos has been a catalyst for change, working to end violence and promote peace in our communities through gang prevention, the promotion of human rights in immigrant communities and the empowerment of youth through positive alternatives to gang involvement and destructive behavior.



**THE LEAGUE OF UNITED LATIN AMERICAN CITIZENS (LULAC)**, founded in 1929, is the oldest Latino civil rights organizations in the U.S. Its mission is to advance the economic condition, educational attainment, political influence, housing, health and civil rights of the nation's Latino population.

**THE NATIONAL COUNCIL OF LA RAZA (NCLR)** is the largest national Hispanic civil rights and advocacy organization in the U.S. Through its network of nearly 300 affiliated community-based organizations, NCLR reaches millions of Hispanics each year in 41 states, Puerto Rico and the District of Columbia. To achieve its mission, NCLR conducts applied research, policy analysis and advocacy, providing a Latino perspective in five key areas: assets/investments, civil rights/immigration, education, employment and economic status, and health.

**THE NEW ALLIANCE FOR PUBLIC SAFETY (NAPS)** is a nationwide network of elected officials committed to juvenile and criminal justice policy reform. NAPS is motivated by the abandonment of countless youth and adults in the justice system and the disproportionate investment America continues to make in incarceration

rather than on proven rehabilitation programs that are significantly cheaper, save lives and lead to productive adulthood.

**PRESENTE.ORG** is a national organization that exists to amplify the political voice of Latino communities. Presente.org seeks to be a centralized organizing hub for issues facing Latinos, with a focus on online activation. This includes providing calls to action via email, social networks, and text message, coordinating on-the-ground events, organizing house parties, and advertising.

**SALVADORAN AMERICAN LEADERSHIP AND EDUCATION FUND (SALEF)** promotes the civic participation and representation of the Salvadoran and other Latino communities in the U.S., specifically the economic development and democracy in El Salvador, as well as to advocate for the country's economic, educational and political advancement and growth.



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