

# Latinos and the Texas Criminal Justice System

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STATISTICAL BRIEF No. 2

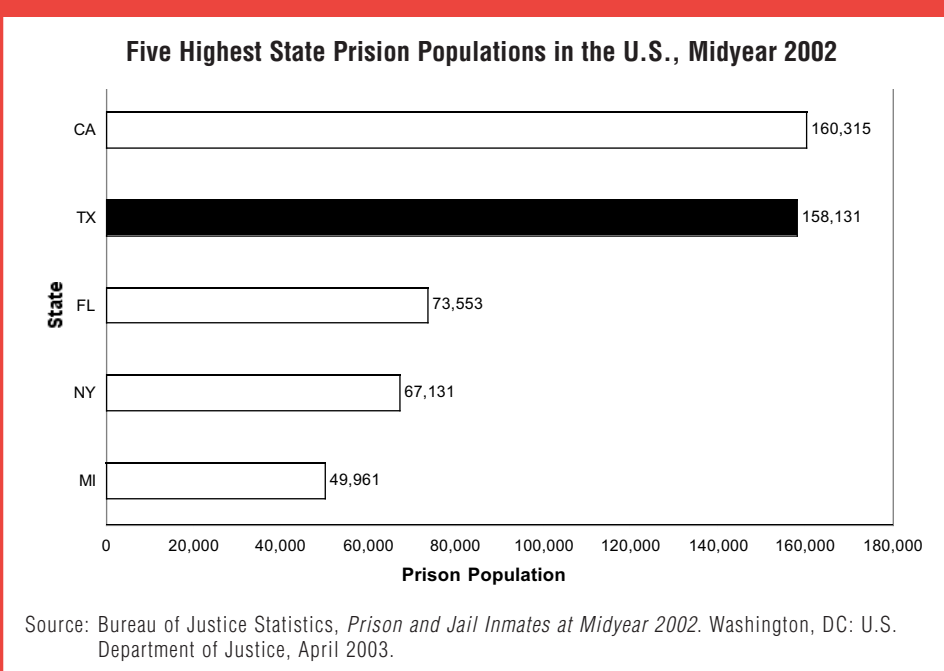
## Introduction

In the last 30 years the U.S. has experienced an unprecedented growth in its prison population. Incarceration rates in state and federal prisons have increased more than sixfold since 1970, and currently there are over two million

people in prison or jail.<sup>1</sup> The majority of the incarcerated are racial and ethnic minorities. In fact, between 1985 and 1997, minorities accounted for approximately 70% of new inmates admitted into the prison population.<sup>2</sup> Latinos\*\*

constitute almost one in five of all those incarcerated in the U.S. (19.9%),<sup>3</sup> while in federal prisons alone they constitute nearly one in three (31.7%).<sup>4</sup> Latinos also represent the fastest-growing segment of the U.S. prison population, and Latino men

FIGURE 1



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\*\* The terms "Hispanic" and "Latino" are used interchangeably throughout this brief to refer to Mexicans, Puerto Ricans, Cubans, Central/South Americans, Dominicans, and others of Spanish/Hispanic descent. Hispanics can be of any race. The data here do not include Puerto Rico.

Statistical Brief

## Incarceration Costs

The Texas criminal justice system costs a lot more than dollars spent. To calculate the true cost, consideration is required for lost economic activity. A study by the NAACP National Voter Fund and the Texas NAACP found that over \$1 billion – about half of the Texas expenditures for education – in lost economic productivity could be estimated from the incarceration of nonviolent drug offenders alone.<sup>1</sup>

<sup>1</sup> *Racial Disparity and the Texas Criminal Justice System*. NAACP National Voter Fund and Texas NAACP, May 22, 2003.

are almost four times as likely to be sentenced to prison during their lifetime as non-Hispanic White males.<sup>5</sup>

As Figure 1 shows, with almost 160,000 persons in prisons and state jails,\* the Texas Department of Criminal Justice (TDCJ) has the second largest state prison system in the U.S., (after California).<sup>6</sup> This number makes for the third-highest incarceration rate in the nation: 685 inmates per 100,000 residents.<sup>7</sup> Notorious across the country for its criminal justice practices, Texas has led the nation

with a 144% incarceration rate increase from 1991 to 1998.<sup>8</sup> Though crime rates in Texas decreased through the 1990s, they have recently begun to climb – despite the remaining high incarceration rates. For example, for 2001, the violent crime rate climbed 5.1% and the index crime rate\*\* rose by 4%,<sup>9</sup> as compared to previous data. Such numbers call into question the logic that the increased use of incarceration decreases crime, as does the fact that other large states – California, Massachusetts, and New York – experienced similar or larger reductions in crime with far fewer increases in their prison populations – 52%, 21%, and 24%, respectively.<sup>10</sup>

## Incarceration

In the last 40 years the Texas prison system has grown from a population of 14,000 inmates on 12 small farms to a multibillion dollar industry warehousing more than ten times as many persons in more than 100 facilities.<sup>11</sup>

According to the TDJC 2003 Biennial Report to the Governor and Legislature, Texas has over

740,000 offenders under criminal justice jurisdiction – the equivalent of one of every 20 adult Texans.<sup>12</sup> Perhaps most disturbing, statistics compiled by TDCJ show that the typical Texas inmate has a low IQ, did not finish high school, has almost a one in three chance of suffering from mental health problems, and is more than likely incarcerated for a behavior that could be prevented by proper and relatively inexpensive medication and counseling.<sup>13</sup>

■ **The alarmingly massive criminal justice system in Texas disproportionately affects minorities.** In fiscal year 2002, TDCJ reported that Latinos, Blacks, and all other minorities composed 70% of the total inmates admitted into Texas prisons.<sup>14</sup> As such, while about four of every ten (40%) Texans are either African American or Latino, about seven of every ten (70%) Texas prisoners are African American or Latino.<sup>15</sup> Although African Americans suffer the greater impact, Latinos are almost twice as likely as Whites to be

\* State jails hold offenders sentenced for a state jail felony; the maximum sentence for these offenders is two years. State prisons hold offenders for sentences longer than two years.

\*\* The "index crime rate" measures offenses including murder, sexual assault, robbery, aggravated assault, burglary, larceny, and motor vehicle theft.

incarcerated: the rate of incarceration per 100,000 men aged 18-64 is 3,474 for Hispanics and 1,873 for Whites.<sup>16</sup> Similarly, the rate of incarceration per 100,000 women aged 18-64 is higher for Hispanic women (243) than for White women (195).<sup>17</sup>

- **There are many factors associated with the overrepresentation of Latinos in the Texas criminal justice system.** Most important are low educational attainment and high poverty, which are linked to a greater likelihood of contact with the criminal justice system. Data from the 2000 Census show that in Texas only one in two (49.3%) Latinos 25 and older have graduated from high school or received a GED, compared to three in four (75.7%) of all Texans. In part because of limited education and subsequent poor earning ability, the Latino population has also experienced a higher unemployment rate relative to non-Hispanic Whites (8.1% and 5.1%, respectively).<sup>18</sup> Finally, Latinos in Texas also suffer greater poverty rates (25.2%) compared to those of Blacks (18.8%) and Whites (7.3%).<sup>19</sup>

## State Prisons vs. State Jails

In Texas, state jails (not to be confused with county jails) imprison offenders sentenced for a felony with a maximum sentence of two years. Thus, a state jail sentence is by definition preferable to a state prison sentence, which can be much longer.

- **A larger share of Latinos is in state prisons than in state jails.** Latinos are 28% of the state prison population and 22% of the state jail population. Comparatively, Blacks and Whites constitute 41% and 30%, respectively, of the prison population, and 45% and 32%, respectively, of the state jail population. Thus, incarcerated Latinos are more likely than either Blacks or Whites to be in longer-sentence institutions (prisons) than in shorter-sentence institutions (state jails).<sup>20</sup>
- **Latinos are less likely than both Blacks and Whites to be in state jails and slightly more likely than both to be in state prisons.** Of all incarcerated Latinos in Texas, 8.6% are in state jails and 91.4% are in prisons, as

compared to 11.3% and 88.7% for Blacks, and 11.0% and 89% for Whites<sup>21</sup> (Table1).

## Parole<sup>22</sup>

TDCJ uses three types of parole. First, Parole Releases are given to offenders who are released from TDCJ at the discretion of the Board of Pardons and Paroles to the supervision of the Parole Division. Second, Mandatory Supervision Releases are given to offenders who are released from TDCJ directly to the supervision of the Parole Division. Finally, Shock Probation Releases are given to offenders who are released from TDCJ by court order to community supervision (probation), and are supervised by Community Supervision and Corrections Departments. As illustrated in Table 1, the data on Parole Releases, Mandatory Supervision Releases, and Shock Probation Releases show that, for fiscal year 2002, proportionate to their release rates, Latinos perform better on parole, supervision, and shock probation than either Blacks or Whites:

- Proportionate to their Parole Releases, Hispanics are less likely than both Blacks and Whites to be Parole Violators.

**TABLE 1**

Parole in TDCJ, by Type, and by Race/Ethnicity, 2002				
Type		Race/Ethnicity		
		Hispanic	White	Black
Parole	Violators	17.8%	31%	51.1%
	Releases	21.6%	31.5%	46.6%
Mandatory Supervision	Violators	23%	35.6%	41.3%
	Releases	27.8%	36%	35.9%
Shock Probation	Violators	25.1%	39.2%	35.4%
	Releases	36.6%	32.9%	29.7%

Source: Texas Department of Criminal Justice. *Statistical Report Fiscal Year 2002*, January 2003.

- Proportionate to their Mandatory Supervision Releases, Hispanics are less likely than both Blacks and Whites to be Mandatory Supervision Violators.
- Proportionate to their Shock Probation Releases, Hispanics are much less likely than both Blacks and Whites to be Shock Probation Violators.

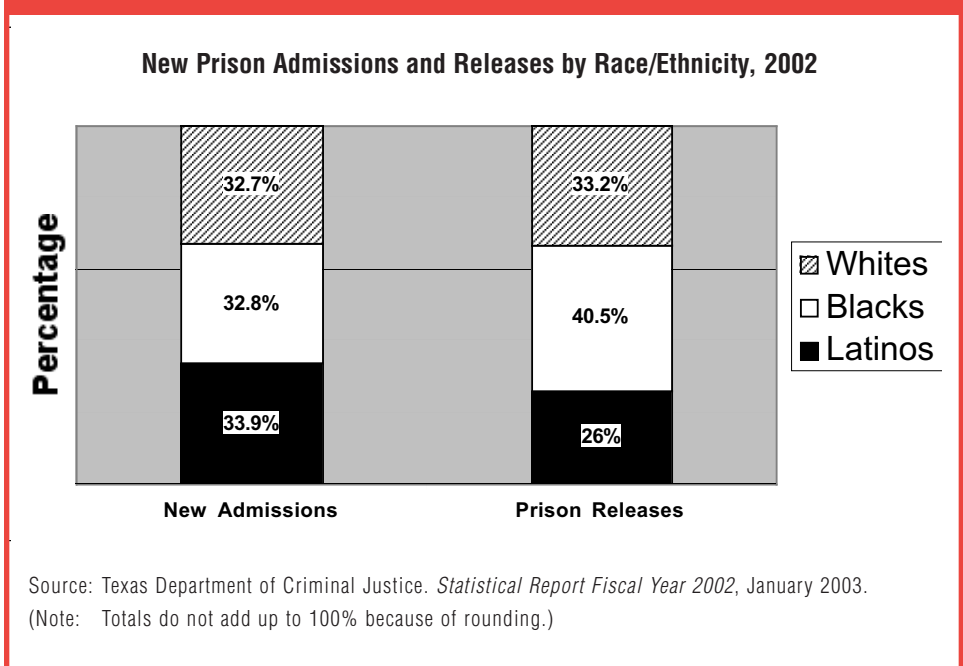
## Release Rates

- In 2002, Latinos were more likely than Blacks and Whites to have a greater share of new prison admissions than prison releases. In its

annual report, TDCJ indicates that for FY 2002 although Latinos constitute one in three (33.9%) new prison admissions, they constitute only one in

four (26%) of all prisoners released. As shown in Figure 2, while new admission and release data were comparable for Whites (32.7% new admissions and 33.2% total releases), for Blacks, the proportion of new admissions was significantly lower (32.8% than the share of total releases (40.5%).<sup>23</sup> The Latino data are troubling because they suggest that, if these proportions hold constant, the disparity in prison releases between Latinos and others will increase, and the share of the overall prison population that is Latino may grow.

**FIGURE 2**



## Revolving Door Prison Population<sup>24</sup>

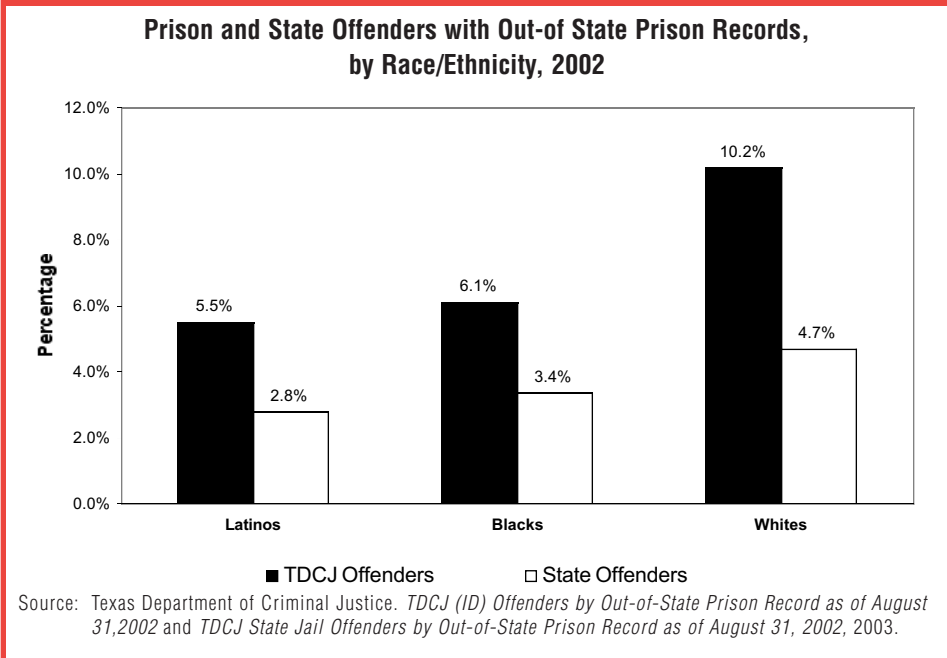
The high rate of incarceration by those with prior TDCJ prison records has a significant impact on all Texans; offenders are consistently encountering a system that, without consideration to dollars spent or humanity wasted, is more willing to punish than rehabilitate.

- One in three (32.9%) Latinos in prison has previously been incarcerated in a Texas prison, compared to 50.2% of Blacks and 38.2% of Whites.
- More than one in seven (15.2%) Latinos in state jails has previously been incarcerated in a Texas state jail, compared to 26.4% of Blacks and 17.1% of Whites.

## Transience<sup>25</sup>

- **Latino TDCJ prison offenders are less likely than either Blacks or Whites to have a prison record from another state.** As of August 31, 2002, of all Latino TDCJ prison offenders only 5.5% had an out-of-state prison record, compared to 6.1% of Blacks and 10.2% of Whites (Figure 3).

**FIGURE 3**



- **Latino state jail offenders are less likely than either their Black or White counterparts to have a prison record from another state.** As of August 31, 2002, of all Latino TDCJ state jail offenders only 2.84% had an out-of-state prison record, compared to 3.35% of Blacks and 4.68% of Whites.
- One in every eight persons (12.6%) receiving capital punishment in the U.S. is on death row in Texas.<sup>27</sup>
- Since 1930, Texas has executed more persons (553) than any other state in the U.S.<sup>28</sup>
- Almost one in four (23.8%) Hispanics sentenced to death in the U.S. is on death row in Texas.<sup>29</sup>
- In Texas, as of the end of FY 2002, there were 449 persons sentenced to death, of whom almost one in four is Hispanic (111).<sup>30</sup>

## Capital Punishment

During 2001, across the nation, the number of Whites and Blacks sentenced to death decreased while the number of Hispanics sentenced to death increased, as compared to previous data.<sup>26</sup>

## Women and Prisons

Women's imprisonment in Texas has increased at twice the rate of that of men throughout the 1990s.<sup>1</sup> In addition, research shows that the fiscal impact of women's imprisonment is greater than that of men. For example, women convicted of felony drug offenses are subject to a lifetime ban on receiving cash assistance or food stamps, which has implications for their children's well-being. A Sentencing Project study showed that during the late 1990s almost 5,000 women in Texas were affected by this ban – over 60% of whom were Latina or African American.<sup>2</sup> Such economic impact has a multiplier effect as it impacts women's ability not only to be self-sufficient, but also to provide for their children and to contribute economically to their communities. As a consequence, imprisoned women suffer higher incidences of family dissolution, which further increases child welfare caseloads.<sup>3</sup> Finally, in Substance Abuse Felony Punishment Facilities (SAFP),<sup>4</sup> Latina women are the smallest percentage of the population receiving substance abuse treatment as an alternative to incarceration – only 4.0% compared to 11.8% for White females and 5.4% for Black females.<sup>5</sup>

<sup>1</sup> Beck, A.J., J.C. Karberg, and P.M. Harrison, *Prison and Jail Inmates at Midyear 2001*. Washington, DC: Bureau of Justice Statistics, April 2002.

<sup>2</sup> Allard, Patricia, *Life Sentences: Denying Welfare Benefits To Women Convicted of Drug Offenses*, Washington, DC: The Sentencing Project, 2002.

<sup>3</sup> Schiraldi, Vincent and Jason Ziedenberg, *Texas Tough Three Years Later*. Washington, DC: Justice Policy Institute, April 2003.

<sup>4</sup> The Substance Abuse Felony Punishment Facility (SAFP) is an institution that provides substance abuse treatment for those offenders sentenced to confinement in that facility. There is a very limited number (4,431) of offenders serving time at SAFP.

<sup>5</sup> *Statistical Report Fiscal Year 2002*. Texas Department of Criminal Justice, Executive Services, January 2003.

## Alcohol and Substance Abuse Issues

As the discussion below demonstrates, alcohol and substance use/abuse are leading concerns for a significant number of offenders in Texas. However, treatment is not available to most who need and want it. Hispanics, in particular, are highly impacted.

### Alcohol

Studies show that Latino men and women, across all age groups, are significantly less likely than most others, regardless of race or ethnicity (including Whites), to use alcohol in their lifetime or to have used alcohol in the last year or in the last month, and are less likely to report "binge" alcohol use.<sup>31</sup> Moreover, national studies show that Hispanics, Blacks, and Whites have approximately the same rate of alcohol-related traffic automobile accidents.<sup>32</sup> Yet, Latinos constitute two in five (39.2%) Texas prison offenders for "Traffic/Driving While Intoxicated" offenses (DWI).<sup>33</sup> Research suggests that racial profiling may be a significant factor associated with this disproportionate figure.<sup>34</sup>

### Drug Offenses

The war on drugs has played a major role in the recent incarceration explosion in the U.S. But the problem is far more complex than just incarcerated drug offenders. In fact, overall, three in four state and four in five federal prisoners may be characterized as alcohol- or drug-involved.<sup>35</sup> Further, studies show that half of all prisoners were under the influence of alcohol or drugs at the time of their offense.<sup>36</sup>

In the state of Texas the number of persons arrested for drug-related offenses increased 60% between 1990 and 2000.<sup>37</sup> In the same time period the number of offenders incarcerated in Texas prisons and jails for drug offenses increased 272%.<sup>38</sup> The battle rages most fiercely in Harris County, where the hazards of zealous prosecution can be seen most clearly. A recent examination of Harris County district court data analyzed by the *Houston Chronicle* showed that of the 58,000 drug convictions won by local prosecutors over the past five years, 77% involved less than a gram of a drug – a weight commonly associated with personal use. Of these offenders, 35,000 were sent to jail or prison.<sup>39</sup>

Latino data show the following:

- **Despite equal rates of drug use proportionate to their populations and little variation in drug use among state prisoners by race,<sup>40</sup> Hispanics across the nation are twice as likely as Whites (and about equally as likely as Blacks) to be admitted to state prisons for a drug offense.**<sup>41</sup> According to 1996 data of new court commitments, of all drug offenses, 39.7% were committed by Hispanics, 36.8% by Blacks, and 18.7% by Whites.<sup>42</sup>
- **In Texas, Latino drug offenders are found mostly in the state prisons and in far smaller numbers in state jails.** As discussed above, a prison sentence carries a longer period of incarceration than does a state jail sentence. Latinos constitute 25% of all drug offenders (5,701) in state prisons, but only 19% of all drug offenders (1,335) in state jails.<sup>43</sup>

## Drug Courts

A drug court is a special court bringing the full weight of all interveners (judges, prosecutors, defense counsel, substance abuse

treatment specialists, probation officers, law enforcement and correctional personnel, and others) to bear, forcing the offender to deal with his or her substance abuse problem. To date, across the nation there are over 1,200 drug courts in existence or being planned, and over 300,000 drug-using offenders have participated in drug court programs. The majority of studies show that drugs courts can be remarkably successful in reducing recidivism rates and producing significant cost savings compared to traditional adjudication.<sup>44</sup>

In Texas, data on the use of drug courts are discouraging:

- **Despite the effectiveness of drug courts, there are only a handful of them in Texas.** Currently, there are six drug courts in Texas compared to 1,200 existing or planned across the country.<sup>45</sup>
- **The state of Texas has limited capacity to serve adults arrested for drug possession offenses.** In fact, at full capacity Texas' drug courts can only address 4% of the state's annual number of arrests for drug possession.<sup>46</sup> This means that for every 25 persons arrested for drug

## State Budget

Roughly one in every four dollars of the Texas \$10 billion budget deficit reflects spending on corrections. While in many states – California, Florida, Illinois, Michigan, Ohio, and others – the response to tighter budgets has been to provide early release to nonviolent prisoners, close prisons, or build effective alternatives to incarceration, Texas has failed to establish even those programs mandated by law.<sup>1</sup> Furthermore, instead of actively working to reduce its prison population, Texas recently debated cuts to education, health care, and other government services as a way of accommodating an increase in the prison population.<sup>2</sup> Such policy-making marks a commitment to imprisonment and a failure to address low education levels, inadequate job skills, and poverty, which characterize the vast majority of those incarcerated, and directly affects the Latino population.

<sup>1</sup> Schiraldi, Vincent and Jason Ziedenberg, *Texas Tough Three Years Later*. Washington, DC: Justice Policy Institute, April 2003

<sup>2</sup> *Texas Prison Population Increase Expected*. Washington, DC: Justice Policy Institute, June 21, 2003.

possession in Texas, only one has the option of going through a drug court.

- **Latinos in Texas have less access to drug courts than either Blacks or Whites.** For example, of the total population served by the Dallas Drug Court, 49% were White, 35% were Black, and only 14%

were Hispanic. In Jefferson Drug Court, matters are worse; among the total population served, 34% were White, 65% were Black, and only 1% were Latino.<sup>47</sup>

- **Latinos are likely to complete drug court programs successfully.** For example, in Dallas, a larger percentage of Hispanics (62%) successfully completed drug court programs, as compared to Whites (59%) and Blacks (47%).<sup>48</sup>

## Treatment

Studies show that of all males entering TDCJ prisons, more than half meet the criteria for substance abuse or dependence and are thus potential candidates for drug rehabilitation programs – a solution commonly assumed preferable to incarceration strictly on its ability to reduce recidivism.<sup>49</sup> Half of these candidates indicate an interest in treatment. In fact, one in four expresses a willingness to extend prison stay by three months to receive treatment. A similar

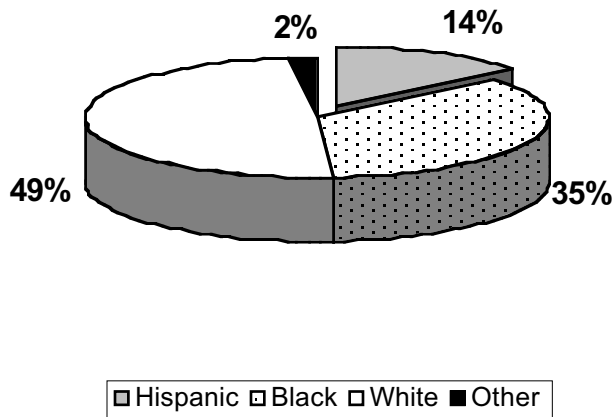
desire for programming exists among state jail prisoners as evidenced by a 2000 survey of 15 of the 17 state jails. Asked to grade the statement, “I am getting the programming I need,” on a scale of one to four, state jail prisoners’ answers barely averaged out over one (1.33).<sup>50</sup>

Overall, treatment in Texas is near impossible to receive. The Texas Commission on Alcohol and Drug Abuse (TCADA) reports that, in the year 2000, there were approximately 2.8 million Texans in need of treatment for a

substance abuse problem. TCADA treatment programs served just over 1% of these individuals. Drug abusers sentenced to prison in Texas often find waiting lists for counseling programs so long that they are released before they can gain access to programming. That means these addicts are returned to the same situations they left, this time with a felony record and further diminished prospects. Texas state jails offer rehabilitation programs required for those thought to have an addiction, but

**FIGURE 4**

**Population Served by the Dallas Drug Court, by Race/Ethnicity, 2003**



Source: Criminal Justice Policy Council. *Initial Process and Outcome Evaluation of Drug Courts in Texas*, January 2003.



here, too, there is usually a waiting list, and with many of the inmates serving six-month sentences, many never gain entrance into the programs.<sup>51</sup>

Latinos, especially, face challenges in their attempts to receive treatment:

- While one in four state or federal prisoners has participated in drug treatment programs, Hispanics are the least likely to have received such programming.<sup>52</sup>
- Of all federal prisoners, Hispanics are half as likely as Whites (19% and 39.5%, respectively) and less likely than Blacks (25.7%) to have ever received treatment for substance abuse.<sup>53</sup>
- Nationally, the numbers are also disproportionate for Hispanic state prisoners who, as a population, are less likely than both Blacks and Whites to receive treatment (33.8%, 36.6%, and 51.8%, respectively).<sup>54</sup>
- The lack of treatment programming in Texas prisons and jails has a heavy impact on Latinos. Given that drug offenses represent a large proportion of total Latino offenses in state jails and state

prisons (41% and 16%, respectively), adequate programming would significantly affect incarcerated Latinos.<sup>55</sup>

By its own calculations, Texas estimates it saves \$770,000 for every 100 offenders who use a prison diversion program (such as a drug court or a treatment program), rather than prison or state jail for two and a half years.<sup>56</sup> But such programming has yet to impact drug offenders in Texas. Thus, the waste of human life and budget dollars is nothing less than colossal.

## Juvenile Offenders

While most states define a juvenile as any person below 18 years of age, Texas is one of only 13 states to define juveniles as 16 or younger. According to a March 2003 report from the Texas Criminal Justice Policy Council, in 2001 there were 52,014 juveniles detained in the state of Texas. This number marks an increase of 65.6% from the 1991 number of 31,399 juveniles detained.<sup>57</sup> A 2002 study by the state of Texas, which examined a representative sample of the juvenile population formal

## Private Prisons

The state of Texas is leading the nation in the ethically debatable practice of corrections for profit. According to a recent report, Texas had the highest number of prisoners held in privately operated facilities: 10,764 persons in private prisons.<sup>1</sup> Texas' private prison clientele, as is the norm for this industry, significantly draws on the detention of immigrants on behalf of the Bureau of Citizenship and Immigrations Services (formerly known as the INS). Studies show that 84% of these immigrants are Hispanic.<sup>2</sup>

<sup>1</sup> Harrison, Paige M. and Jennifer C. Karberg, *Prison and Jail Inmates at Midyear 2002*. Washington, DC: Bureau of Justice Statistics, April 2003.

<sup>2</sup> Greene, Judith, "Bailing Out Private Prisons," *The American Prospect*, vol.12 no.16, September 10, 2001.

dispositions (cases adjudicated by the court), found that more than three-quarters (79%) of juveniles were disposed for committing a nonviolent offense.<sup>58</sup>

The following highlight specific data on Latino juveniles in TDCJ and also point to the significant disparities between Latino and other juvenile offenders:

- A study of 12 counties accounting for 52% of the statewide juvenile referrals found that the juvenile system has a disproportionate number of minorities. In the evaluation counties, African Americans represented 15.5%

of the juvenile population and 31% of the eligible juveniles disposed. Hispanics represented 40.5% of the juvenile population and 43% of the eligible juveniles disposed, and Whites represented 44% of the juvenile population and 26% of the eligible juveniles disposed.<sup>59</sup>

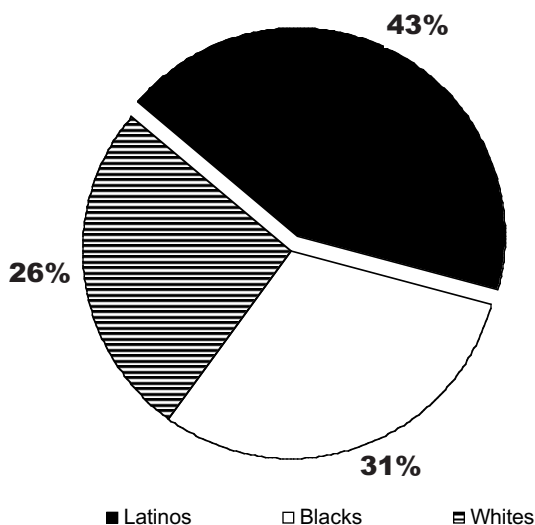
- A study of 1997 data showed that the number of Latino juveniles in custody (383) is two-and-a-half times that of White juveniles in custody (155).<sup>60</sup>

- In Texas, a juvenile who commits a capital or first degree felony at the age of 14, or who commits any felony at age 15 or 16, may be certified to stand trial as an adult. A 1999 report studying certification trends in 12 counties (which total over half the total statewide juvenile referrals) found that Blacks and Hispanics represented over 87% of all certifications.<sup>61</sup>

- Hispanics alone represented 43% of the eligible juveniles disposed in the adult system,

**FIGURE 5**

**Juveniles Disposed in the Adult System, by Race/Ethnicity, 1996**



Source: Criminal Justice Policy Council, *An Overview of Juvenile Certification in Texas*, 1999.

compared to 31% of Blacks and 26% of Whites.<sup>62</sup>

- Hispanic juveniles were more likely to be certified than Whites – even if they were disposed for the same offense, were the same age, and had a similar record of prior adjudication in the juvenile system. For example, of the eligible Hispanic juveniles disposed for violent offenses, 11% were certified compared to 7% of the eligible White juveniles. In all, certification of juveniles was higher for Hispanics than Whites regardless of age or offense type.<sup>63</sup>

- While less than half of White juveniles eligible for certification were certified (12.7% of 26.1%), almost all Hispanic juveniles eligible for certification were certified (40.3% of 42.9%).<sup>64</sup>

An additional issue for juvenile offenders is that of substance use/abuse. A simple random-sample study of substance use among youths entering Texas Youth Commission (TYC) facilities in 2000-2001 found that Hispanic youths (89%) were more likely than Whites (80%) or Blacks (82%) to have used an illicit drug in the past year. Hispanics (74%) were also more likely than either

Whites (69%) or Blacks (60%) to report substance use problems. Of youths with substance use problems, 77% said they were interested in participating in a treatment program and 34% reported that they would be willing to stay an extra three months in a TYC facility if it meant receiving treatment.<sup>65</sup>

The entire juvenile offender population shared various social factors, which speaks clearly to the need to provide these children with services rather than adult-like criminal treatment:<sup>65</sup>

- Three-quarters (74%) identified as having school problems such as failing a grade or dropping out of school.
- Half (49%) had a family member with a history of criminal activity or incarceration, or were suspected of being in a gang, or were involved with a gang.
- Almost one-third (31%) was engaged in frequent alcohol or drug use.
- More than one in five (22%) was identified as having mental health or mental retardation problems.
- One-fifth (20%) had no contact with either parent, two or more changes of residence in the prior

year, and/or prior contact with a child protection agency.

Finally, with projections for an increased juvenile population, Texas cannot fiscally afford to continue treating juveniles the way it has. The cost of running an ever-growing juvenile justice system in Texas has quadrupled in a ten-year period: total juvenile justice expenditures in 1990 were \$97,089,742 and by 2001 had grown to over \$400,000,000.<sup>67</sup>

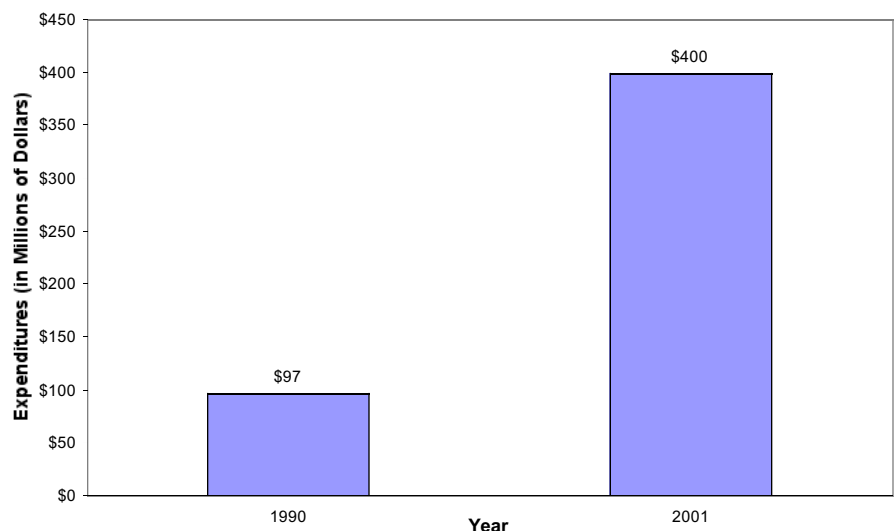
## Prisons and Children

Over half of the men incarcerated in Texas (54.7%),<sup>1</sup> and two-thirds of the women (65.3%), are parents of minor children. These children often end up in state foster care programs unable to be retrieved by their parents who, upon returning from prison, have trouble finding a job or a place to live because of their "felon" label. The impact on the children is, of course, severe; children who have an incarcerated parent are five times more likely than other children to serve prison time as adults.

<sup>1</sup> Bureau of Justice Statistics, *Incarcerated Parents and Their Children*. Washington, DC: U.S. Department of Justice, August 2002.

**FIGURE 6**

**Texas Expenditures for Juvenile Justice System, 1990 and 2001**



Source: *Texas Legislative Budget Estimates*, 1991 and 2000.

## Conclusion

This research conclusively demonstrates that Latinos in Texas are facing an inequitable society and a discriminatory criminal justice system: Latinos are less likely than all Texans to have graduated from high school, more likely to be unemployed and to have greater poverty rates than Blacks or Whites, and almost twice as likely as Whites to be incarcerated.

The research points to other disparities as well; though they are equally likely to consume illegal drugs as Whites, Latinos are twice as likely to be incarcerated for their use. Though Latinos are significantly less likely than most others (including Whites) to use alcohol in their lifetime, they

constitute two in five of "Traffic/Driving While Intoxicated" offenses. Moreover, when the option of drug courts is provided for drug users/abusers, Latinos have less access than either Blacks or Whites, despite the fact that they are more likely than either Blacks or Whites to complete such programs successfully. When drug treatment is provided, Latinos are the least likely of all racial/ethnic groups to receive these services.

Latinos and African Americans, while only four of every ten Texans, constitute seven of every ten of its prisoners. Future trends indicate that, without intervention, the percentage of the incarcerated population that is Latino will grow significantly as there are more Latinos entering than leaving Texas prisons. To

further aggravate this situation, the increase of the Latino population in Texas prisons is happening in the face of TDCJ - funded studies showing that Latinos perform better on parole than either Blacks or Whites. Latinos are a young population and a significant share of the overall Texas population, which means that they are the state's future workers and taxpayers. Consequently, as these data demonstrate, it is critical that policy-makers and public officials in Texas focus efforts on reducing the number of Latinos who interact with TDCJ and investing in strategies that offer alternatives to incarceration, particularly for low-level, nonviolent offenders.

## ENDNOTES

1. Gainsborough, Jenni and Marc Mauer, *Diminishing Returns: Crime and Incarceration in the 1990s*. Washington, DC: The Sentencing Project, September 2000.
2. Gilliard, Darrell K. and Allen J. Beck, *Prison and Jail Inmates at Midyear 1997*. Washington, DC: Bureau of Justice Statistics, January 1998.
3. Harrison, Paige M. and Jennifer C. Karberg, *Prison and Jail Inmates at Midyear 2002*. Washington, DC: Bureau of Justice Statistics, April 2003.
4. *Compendium of Federal Justice Statistics, 1999*. Washington, DC: Bureau of Justice Statistics, April 2001.
5. Bonczar, Thomas P. and Allen J. Beck, *Lifetime Likelihood of Going to State or Federal Prison*. Washington, DC: Bureau of Justice Statistics, March 1997.
6. *Prison and Jail Inmates at Midyear 2002, Op. cit.*
7. *Ibid.*
8. *Diminishing Returns, Op. cit.*
9. Editorial, "Too many in prison; too little care and prevention," *Houston Chronicle*, April 24, 2003.
10. *Diminishing Returns, Op. cit.*

11. Bennett, Glenn Lon, et. al. "Texas Prisons: The Largest Hotel Chain in Texas." 2001. (Source: Criminal Justice Abstracts database.)
12. According to 2000 Census data, the Texas adult population is 14,965,061. See, [http://factfinder.census.gov/servlet/QTTable?ds\\_name=DEC\\_2000\\_SF1\\_U&geo\\_id=04000US48&qz\\_name=DEC\\_2000\\_SF1\\_U\\_DP1](http://factfinder.census.gov/servlet/QTTable?ds_name=DEC_2000_SF1_U&geo_id=04000US48&qz_name=DEC_2000_SF1_U_DP1)
13. *Statistical Report Fiscal Year 2002*. Texas Department of Criminal Justice, Executive Services, January 2003.
14. *Statistical Summary Fiscal Year 2002*. Texas Department of Criminal Justice, January 2003.
15. Schiraldi, Vincent and Jason Ziedenberg, *Texas Tough Three Years Late*. Washington, DC: Justice Policy Institute, April 2003.
16. "Race and Incarceration in the United States," Human Rights Watch Press Backgrounder. <http://www.hrw.org/backgrounder/usa/race/> February 2002.
17. *Ibid.*
18. U.S. Census 2002 data.
19. *Ibid.*
20. "TDCJ Offenders by Race (ID) as of August 31, 2002." Texas Department of Criminal Justice, Executive Services, March 2003. Also, "TDCJ Offenders by Race (State Jail) as of August 31, 2002." Texas Department of Criminal Justice, Executive Services, March 2003.
21. *Ibid.*
22. All data in this section are from *Statistical Report Fiscal Year 2002, Op. cit.*
23. *Statistical Report Fiscal Year 2002, January 2003. Op. cit.*
24. "TDCJ (ID) Offenders by Prior TDCJ Prison Record as of August 31, 2002." Texas Department of Criminal Justice, Executive Services, April 2003. Also, "TDCJ State Jail Offenders by Prior TDCJ Prison Record as of August 31, 2002." Texas Department of Criminal Justice, Executive Services, March 2003.
25. "TDCJ (ID) Offenders by Out-of-State Prison Record as of August 31, 2002." Texas Department of Criminal Justice, Executive Services, April 2003. Also, "TDCJ State Jail Offenders by Out-of-State Prison Record as of August 31, 2002." Texas Department of Criminal Justice, Executive Services, March 2003.
26. Snell, Tracy L. and Laura M. Maruschak, *Capital Punishment 2001*. Washington, DC: Bureau of Justice Statistics, December 2002.
27. *Ibid.*
28. *Ibid.*
29. *Ibid.*
30. *Statistical Report Fiscal Year 2002, Op. cit.*
31. *National Household Survey on Drug Abuse*.
32. "February 1999 National Diversity Forum," Mothers Against Drunk Driving report, available at <http://www.madd.org/aboutus/0,1056,1360,00.html>.
33. *Statistical Report Fiscal Year 2002, Op. cit.*
34. Yzaguirre, Raul, *Testimony on Racial Profiling*, Submitted to Senate Judiciary Subcommittee on the Constitution, Federalism and Property Rights, Washington, DC: The National Council of La Raza, August 1, 2001.
35. Mumola, Christopher J., *Substance Abuse and Treatment, State and Federal Prisoners, 1997*. Washington, DC: Bureau of Justice Statistics, January 1999.
36. *Ibid.*
37. Martinez, Alma I. and Michael Eisenberg, *Overview of Drug Courts in Texas*. Austin, TX: Criminal Justice Policy Council, January 2002.
38. *Ibid.*
39. Graves, Rachel, "War on drugs nets small-time offenders," *Houston Chronicle*, December 15, 2002.
40. *Substance Abuse and Treatment, Op. cit.*
41. Ditton, P.M. and D.J. Wilson, "Truth in Sentencing in State Prisons." Washington, DC: Bureau of Justice Statistics, January 1999.
42. *Substance Abuse and Treatment, Op. cit.*
43. Martinez, Alma I. and Michael Eisenberg, *Initial Process and Outcome Evaluation of Drug Courts in Texas*. Austin, TX: Criminal Justice Policy Council, January 2003.
44. Belenko, Steven, *Research on Drug Courts: A Critical Review, 2001 Update*. New York, NY: The National Center on Addiction and Substance Abuse (CASA) at Columbia University, June 2001. [http://www.casacolumbia.org/publications1456/publications\\_show.htm?doc\\_id=114254](http://www.casacolumbia.org/publications1456/publications_show.htm?doc_id=114254)

45. *Initial Process and Outcome, Op. cit.*
46. *Ibid.*
47. *Ibid.*
48. *Ibid.*
49. Farabee, David, *Substance Use Among Male Inmates Entering the Texas Department of Criminal Justice – Institutional Division*. Austin, Texas: Texas Commission on Alcohol and Drug Abuse, 1993.
50. *State Jail Evaluation Summary Report*. Texas Department of Criminal Justice Research, Evaluation and Development Unit, December 2000.
51. "War on drugs nets small-time offenders," *Op. cit.*
52. *Substance Abuse and Treatment, Op. cit.*
53. *Ibid.*
54. *Ibid.*
55. "TDCJ Offenders by Offense by Race (State Jail) as of August 31, 2002." Texas Department of Criminal Justice, Executive Services, March 2003. Also, "TDCJ Offenders by Offense (ID) as of August 31, 2002." Texas Department of Criminal Justice, Executive Services, March 2003.
56. Eisenberg, Michael, *The Second Biennial Report on the Performance of the Texas Department of Criminal Justice Rehabilitation Tier Programs*. Criminal Justice Policy Council, February 2003.
57. Prescott, Leslie R, *An Overview of Texas Juvenile Justice Population Trends and Dynamics: An Update*. Austin, Texas: Criminal Justice Policy Council, March 2003.
58. Arrigona, Nancy, Leslie R. Prescott, and Brittani Trusty, *Social Factors of Adjudicated Juvenile Offenders in Texas*. Austin, TX: Criminal Justice Policy Council. August 2002.
59. Arrigona, Nancy, Garrett Hodgson, and Tom Reed, *An Overview of Juvenile Certification In Texas, 1999*. Prepared for the 76th Texas Legislature. Austin, TX: Criminal Justice Policy Council.
60. "Juvenile Offenders and Victims," 1998 Report to Congress. Office of Juvenile Justice and Delinquency Prevention, 1999.
61. *An Overview of Juvenile Certification In Texas, 1999, Op. cit.*
62. *Ibid.*
63. *Ibid.*
64. *Ibid.*
65. All data from: Wallisch, Lynn S. and Lisa Kerber, *Substance Use and Delinquency Among Youths Entering Texas Youth Commission Facilities: 2000-2001*. Austin, Texas: Texas Commission on Alcohol and Drug Abuse, September 2001.
66. *Social Factors of Adjudicated Juvenile, Op. cit.*
67. Texas Legislative Budget Estimates for 1991 and 2000.

# 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.

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## **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**

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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**

## **IMMIGRATION ENFORCEMENT BY LOCAL POLICE: THE IMPACT ON THE CIVIL RIGHTS OF LATINOS**

Enforcement of immigration laws has always been the responsibility of the federal government. However, following the September 11, 2001 terrorist attacks, the Department of Justice initiated new counterterrorism policies, one of which has been to enlist state and local law enforcement officers in antiterrorist activities. While the safety and security of the United States is a priority, this document points out how new policies that would allow local police departments to enforce federal immigration law may actually hinder terrorist and other criminal investigations and is likely to have a serious negative impact on Latino communities. The report also documents how involving local police officers in federal immigration enforcement contradicts decades of federal case law and policy, and how delegation of immigration authority is likely to result in racial profiling, police misconduct, and civil rights violations. The publication also points out that such efforts erode trust between local police and the communities they serve and protect. **ISSUE BRIEF No. 9**

## COUNTERTERRORISM AND THE LATINO COMMUNITY SINCE SEPTEMBER 11TH

Since September 11, 2001, immigration and national security have become intermingled in the U.S. in unprecedented ways. While the new restrictive immigration policies appear to be targeted at Arab Americans and Muslim Americans, these policies have had harmful effects on the Latino population as well. Since 35 million Latinos make up the nation's largest minority, these recent developments have caused serious concerns in the Latino community. This Issue Brief documents the new "antiterrorist" policies affecting the Latino community and examines other government actions that have had an impact on the Latino population. Finally, it looks at the long-term implications for comprehensive immigration reform legislation. [Issue Brief No. 10](#)

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## STATISTICAL BRIEF ON LATINOS AND THE CRIMINAL JUSTICE SYSTEM

The brief analyzes the most recent data from the U.S. Department of Justice's Bureau of Justice Statistics, the Federal Bureau of Prisons, and the U.S. Department of Health and Human Services to gather a statistical portrait of Latinos who are currently incarcerated in, or involved in, the U.S. Federal Prison System. [Statistical Brief No. 1](#)

## LATINOS AND THE TEXAS CRIMINAL JUSTICE SYSTEM

This brief analyzes the most recent data related to Latinos and the criminal justice system in Texas, and underscores the disparities that exist between Latinos and others in terms of incarceration, release rates, and other issues. The analysis indicates the need for alternatives to incarceration, such as substance abuse treatment and other approaches, to reduce the growth among Latinos in the prison population in Texas. [Statistical Brief No. 2](#)

## THE LATINO WORKFORCE

This brief examines the demographics, education, sectoral employment, union affiliation, and other facets of the Latino workforce. This statistical brief draws research and analysis from various sources, including surveys from both the U.S. Census Bureau and the Department of Labor's Bureau of Labor Statistics. [Statistical Brief No. 3](#)

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