

WRITTEN TESTIMONY FOR A HEARING ON

**BUILDING TRUST AND LEGITIMACY**

SUBMITTED TO:

THE PRESIDENT'S TASK FORCE ON 21<sup>ST</sup>-CENTURY POLICING

SUBMITTED BY:

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January 9, 2015

## INTRODUCTION

I submit the following testimony in my capacity as President and CEO of the National Council of La Raza (NCLR). Founded in 1968, NCLR is the largest national Hispanic<sup>i</sup> civil rights and advocacy organization in the United States with an Affiliate Network of almost 300 community based organizations across 41 states, Puerto Rico, and the District of Columbia, and is committed to advancing civil rights for the nation's 54<sup>ii</sup> million Hispanic Americans. To this end, NCLR conducts applied research, policy analysis, and advocacy on a variety of issues that impact the Latino community, including civil rights and criminal justice, and works to end the legacy of discrimination.

What separates the United States from many countries around the world is our core belief that the constitutional principles of liberty, equality, and justice are guaranteed to all and are the central pillars of our democracy. NCLR is deeply concerned about the state of policing practices and their impact on the Latino community. Latinos, like Black Americans, have historically endured discrimination, racial profiling, abuse, and not infrequently, the loss of life in the hands of police. Recent events in Missouri and New York, and the public protests that ensued, brought to the attention of the general public the severity and prevalence of abusive policing practices in communities of color.

Immigration enforcement and policing practices are also inherently linked as they relate to Latinos. The last decade has marked the blurring of historical federal authority over immigration law. The result has been state and local police gaining broad authority over immigration enforcement, further exacerbating already widespread profiling, and abusive policing practices in Latino communities.

It is not surprising, therefore, that there is an increased eroding of Latino community trust in law enforcement and a growing concern over discriminatory policing practices. A recent Kellogg Foundation<sup>iii</sup> opinion poll found that despite optimism among Latino adults regarding the opportunities they see for the future, and in spite of the overwhelming belief that local police exist to protect them and their families, 68% of Latinos reported concern that the police will use excessive force against them, and 59% reported that they would make changes to their local police. A 2012 Latino Decisions Poll<sup>iv</sup> found that, nationally, 79% of Latinos believe that state immigration laws, like Arizona's 1070, will lead to police stopping both U.S. Latinos and immigrants alike and questioning them.

The current national debate on race and policing has, unfortunately, all but ignored the Latino perspective. Given the significant experiences of Latinos with policing practices and their detrimental impact on the community, NCLR believes it is imperative that the administration consider the Latino perspective in formulating policies to address this issue. Thus, we appreciate the opportunity to submit testimony to the President's Taskforce on 21<sup>st</sup>-Century Policing (the Taskforce) about the Latino perspective on police practices and the criminal justice system, as well as the opportunity to put forth recommendations that address some of the Latino community's concerns.

## BACKGROUND

With our Affiliate Network of nearly 300 community-based organizations nationwide, NCLR has worked on state and national policy platforms to end the legacy of discrimination, racial profiling of U.S. and immigrant Latinos, and to advance juvenile justice reforms that serve to protect the rights of Latino youth. NCLR continues its work to:

- Comprehensively ending racial profiling of Latinos, advocating for legislative reform to dismantle pervasive practices by local, state, and federal law enforcement agencies that threaten the civil rights and safety of the Hispanic community.
- Reform the juvenile justice system through strategic collaborative national and state partnerships to advance juvenile justice policy platforms, strengthen the provisions of the Juvenile Justice Detention and Prevention Act (JJDP A), and reduce disproportionate minority contact within the juvenile justice system.
- Ban the practice of federal government agencies using local police to enforce immigration policies.

Latinos have historically perceived the police and other law enforcement as often unfairly targeting and discriminating against them, with little or no accountability for police behavior. This perception has increased following escalated efforts by federal and local law enforcement to target immigrants—the vast majority of whom are not criminals—in overzealous attempts to curb immigration. The Latino community’s increased mistrust of law enforcement and growing concern over victimization by police is a direct result of extensive discriminatory experiences with police abuse and unequal treatment by justice system.

During the past two years, in California alone, Latinos have been the victims of a number of police killings, including the killing of a 13-year-old boy walking in his neighborhood with a pellet gun that a police officer mistook for a rifle. The officer was not charged in the killing, sparking protests by the community.<sup>v</sup> In Monterey County, CA, during a four-month span in 2014, four Latino men were killed by police in separate incidents. In 2012, a 27-year-old Latino was shot in the back of the head by an Anaheim police officer. Once again, the police officer, who alleged the young man was suspected of being a gang member as his defense, was not charged in the killing, sparking four days of community protests and social unrest.<sup>vi</sup> These incidents are merely a few examples of what regularly takes place in Latino communities across the country.

**Latino Deaths Related to Arrest.** According to the last report compiled by Department of Justice’s Bureau of Justice Statistics (BJS),<sup>vii</sup> Latinos made up 20% (949) of reported state and local law enforcement arrest-related deaths from 2003–2009; 599 or 63% of those deaths were attributed to homicide by law enforcement personnel. The numbers are almost certain to be higher; the BJS survey is voluntary, not all states submitted data and the report also excludes data from federal law enforcement agencies. The [Death in Custody Reporting Act](#) of 2013,<sup>viii</sup> enacted December of 2014, requires states and federal agencies to report to the U.S. Attorney General data on deaths during arrest.

**Sentencing and Rates of Incarceration.** Despite being 17% of the U.S. population in 2013, the Bureau of Justice Statistics reported Latinos comprised 22%<sup>ix</sup> of the state and federal inmate population. According to a 2014 PEW report<sup>x</sup> the composition of offenders sentenced in federal court has radically changed over the last two decades, as a result of increased immigration enforcement. In 1992, 23% of sentenced offenders in the federal system were Hispanic. By 2012 Hispanics comprised the largest share (48%) of those sentenced in federal court as compared to 27% of Whites and 20% of Blacks. The rate of Hispanics imprisoned for unlawful re-entry into the U.S. (a federal crime) doubled during this period of time.<sup>xi</sup>

**The Juvenile Justice System.** Latino youth are routinely and unfairly targeted for police stops, arrested, detained, and too often waived to adult criminal court. They are more likely to be sentenced to serve longer periods of time than their non-Hispanic counterparts. The Models for Change Initiative<sup>xii</sup> found that Latino youth are significantly overrepresented and receive harsher treatment than White youth, even when charged for the same types of offenses. A 2013 study<sup>xiii</sup> found that Latino and Black American youth are more likely than White youth to be institutionalized. Furthermore, income and poverty levels affect the rate of youth detentions. Youth coming from economically disadvantaged areas were more likely to be detained than were those from affluent areas.

**Racial Profiling and the Impact of Expanded Immigration Enforcement.** The practice of racial and ethnic profiling by local, state, and federal government law enforcement agencies against minorities in the U.S. remains widespread and pervasive, according to a 2009 national ACLU report.<sup>xiv</sup> The report further attributed exacerbated Latino profiling on enforcement of immigration law by local police pursuant to Immigration and Nationality Act Sec. 287 (g).<sup>xv</sup> NCLR reached a similar conclusion following their 2009 policy analysis on the impact of the 287 (g) law on the Latino community.<sup>xvi</sup> In 2008, PEW<sup>xvii</sup> reported that one out of every eight native-born Latinos and 10% of immigrants stopped by law enforcement authorities were asked about their legal status. Latinos in southern states, where the majority of 287 (g) agreements are in effect, live in constant fear of being targeted by police, according to a report by the Southern Poverty Law Center.<sup>xviii</sup>

NCLR's policy research also found that police were often untrained or unsupervised in enforcing immigration law. Further, the program was most often used to remove nonviolent undocumented immigrants, depleting already limited law enforcement resources and diverting police attention from serious crime. As such, the Major Cities Police Association views the 287(g) agreements as impeding their ability to foster community trust and discouraging immigrants from reporting serious crime for fear of being deported.<sup>xix</sup>

## **RECOMMENDATIONS:**

### **Increased Data and Inclusion of Ethnicity as a Recognized Variable in Data Collection.**

Transparency is critical to law enforcement accountability and an important deterrent to police abuse. All state and federal agencies, without exception, should be required to report incidents of abuse and deaths occurring in police custody.

Require the FBI, federal and state law enforcement agencies to include ethnicity as a recognized variable in data collection. Historically, many states and the FBI identify Latinos as White or Black, resulting in severe underreporting of the number of arrests, abuse, and death in custody. Likewise, data on the number of Latinos in juvenile facilities is severely underreported.

**DOJ Racial Profiling Guidelines should include USCBP.** The border patrol has been responsible for thousands of Latino immigrant deaths, exact numbers are not known since the agency does not have reporting requirements. Further racial profiling of all Latinos is a rampant exercise without any accountability. Serious and meaningful efforts to address racial profiling must include accountability measures for USCBP.

**Ban the Use of 287 (g) Agreements to Enforce Immigration Law.** The 287 law confers broad authority on local police to interrogate anyone suspected of being undocumented and arrest them without a warrant. The use of these agreements elevates police profiling and discrimination against all Latinos. It also impedes community trust in the police and discourages immigrants from reporting serious crime for fear of being deported.

**Increase Latino Diversity in Police Departments.** A recent analysis by the Associated Press found that a large disparity exists between Latino officers and the communities they work in. In Waco, Texas, Latinos are 30% of the population but only 27 of the 231 full-time officers were Latino.

**Strengthen the Provisions of the Juvenile Justice Delinquency and Prevention Act (JJDP A).** The JJDP A requires states to reduce disproportionate minority contact with the juvenile system. States should be required to adopt publically available plans for reducing racial and ethnic youth contact with the juvenile system. The federal government should also increase the availability of state grants for community and home alternative programs to incarceration.

**Increase Resources for Community–Police Partnership Programs.** NCLR believes that community policing partnership programs can lead to success. Many NCLR Affiliates have worked successfully with local police to improve community relations, reduce crime, and to restore trust. But lack of funding and resources are significant restraints to sustained involvement in community-policing programs. Funding should be increased for these efforts.

## CONCLUSION

Trust in the integrity of the government institutions mandated to serve and protect the people is the backbone of a democracy. But, following decades of discrimination across the criminal justice system and enduring police abuse, the Latino community's trust in law enforcement is eroding. The issues needed to be addressed to restore trust, protect Latino civil rights, and personal safety are vast and urgent. NCLR urges the Taskforce to expeditiously report these issues and NCLR recommendations to the attention of the President, with the expectation that meaningful changes to the criminal justice system and policing practices will ensue.

## Endnotes:

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- <sup>i</sup> The terms "Hispanic" and "Latino" are used interchangeably by the U.S. Census Bureau and throughout this document to refer to persons of Mexican, Puerto Rican, Cuban, Central and South American, Dominican, Spanish, and other Hispanic descent; they may be of any race
- <sup>ii</sup> [http://www.census.gov/content/dam/Census/newsroom/facts-for-features/2014/cb14ff-22\\_hispanic.pdf](http://www.census.gov/content/dam/Census/newsroom/facts-for-features/2014/cb14ff-22_hispanic.pdf)
- <sup>iii</sup> <http://www.wkcf.org/news-and-media/article/2014/11/poll-of-latino-families-finds-optimism-despite-many-obstacles>
- <sup>iv</sup> <http://www.latinodecisions.com/blog/2012/07/19/latinos-overwhelmingly-oppose-supreme-court-decision-sb1070/>
- <sup>v</sup> <http://www.businessinsider.com/riot-police-show-up-to-andy-lopez-protests-2013-10>
- <sup>vi</sup> <http://latino.foxnews.com/latino/news/2012/07/25/feds-to-review-anaheim-police-killing-unarmed-latino/>
- <sup>vii</sup> <http://www.bjs.gov/index.cfm?ty=pbdetail&iid=2228>
- <sup>viii</sup> <https://www.congress.gov/bill/113th-congress/house-bill/1447>
- <sup>ix</sup> <http://www.bjs.gov/index.cfm?ty=pbdetail&iid=5109>
- <sup>x</sup> <http://www.pewhispanic.org/2014/03/18/the-rise-of-federal-immigration-crimes/>
- <sup>xi</sup> Ibid. Operation Streamline was implemented in 5 Southwest sectors by the US Customs and Border Patrol starting in 2005, and used as a preferred staple in an arsenal of strategies to quickly and efficiently convict unauthorized re-entrants. Forty undocumented immigrants are allowed to be prosecuted and adjudicated at the same time. Besides calling into question traditional notions of due process, this program alone accounted for almost half (45%) of federal related immigration prosecutions between the years 2005-2012
- <sup>xii</sup> <http://www.modelsforchange.net/index.html>
- <sup>xiii</sup> <http://jrc.sagepub.com/content/50/2/189.short>
- <sup>xiv</sup> [www.nclr.org/images/uploads/general/287gReportFinal.pdf](http://www.nclr.org/images/uploads/general/287gReportFinal.pdf)
- <sup>xv</sup> 8 U.S. Code § 1357
- <sup>xvi</sup> [www.nclr.org/images/uploads/general/287gReportFinal.pdf](http://www.nclr.org/images/uploads/general/287gReportFinal.pdf)
- <sup>xvii</sup> <http://www.pewhispanic.org/2008/09/18/2008-national-survey-of-latinos-hispanics-see-their-situation-in-us-deteriorating-oppose-key-immigration-enforcement-measures/>
- <sup>xviii</sup> <http://www.splcenter.org/get-informed/publications/under-siege-life-for-low-income-latinos-in-the-south>
- <sup>xix</sup> [www.nclr.org/images/uploads/general/287gReportFinal.pdf](http://www.nclr.org/images/uploads/general/287gReportFinal.pdf)