

# Overrepresentation of Hispanic/Latinx Youth in the Juvenile Legal System

Over the past 15 years there has been a national downward trend in detention admissions for youth. However, as admissions decrease, the issue of race becomes more apparent. Data shows that there is a disproportionate overrepresentation of Hispanic/Latinx youth in the juvenile legal and child welfare systems. This policy brief focuses on the systemic marginalization and social inequity that Hispanic/Latinx youth experience contributing to their overrepresentation in these systems, and the role that protective factors can play in deconstructing the systems that perpetuate these inequities and building youth resilience.

## What We Know:

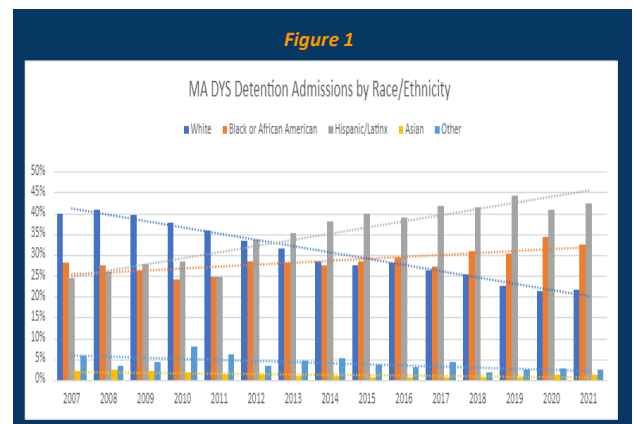
*As the numbers of youth entering detention from the juvenile legal system have decreased, the overrepresentation of Hispanic/Latinx youth has increased. \**

- According to a 2021 report from The Sentencing Project, Latinx youth were 28% more likely to be detained or committed to juvenile facilities than their white peers. Nationally, the rate of placement for Latinx youth was 92 per 100,000, compared to the placement rate of white youth at 72 per 100,000.<sup>3</sup>
- Massachusetts, which has one of the highest Latinx-white detention admission disparity rates, saw this disparity rate increase by +24% over a decade from 2007-2017.<sup>4</sup> Because JDAI was established in Massachusetts in 2007 at the start of this decline, we are paying particular attention to how statewide reform efforts aimed at decreasing the number of youth in detention may inadvertently negatively affect the Hispanic/Latinx population.
- According to the Department of Youth Services detention admissions data from 2007-2022, Hispanic/Latinx Youth entering detention increased by 18% from 24% in 2007 to 42% in 2021. (See Figure 1 below).
- The overrepresentation of Hispanic/Latinx youth in detention in Massachusetts is apparent when compared to the percent of these youth in the general population. According to the Massachusetts Office of the Child Advocate (OCA) data from 2020, Hispanic/Latinx youth only make up 19% of the overall youth population of the state.<sup>5</sup>

## Experiences of Hispanic/Latinx Youth:

*Hispanic/Latinx youth experience heightened scrutiny, hyper-criminalization, and a lack of opportunity.*

- Hispanic/Latinx youth are treated more harshly than their white peers by the justice system for the same offenses and at all stages including police stops, arrests, detention, waiver to the adult criminal justice system, and sentencing.<sup>6</sup>
- Due in part to a lack of research on this population, there is no simple answer to the question of why Hispanic/Latinx youth are being treated so unfairly. Even though criminal laws have been used for over a century to discriminate against Latinos in this country, we do not have a comprehensive understanding of the reasons for this mistreatment.<sup>6</sup>
- The disparities do not begin at arrest, but stem from the social contexts into which many Hispanic/Latinx youth are born. Unequal access to quality early childhood programs, elementary and secondary education, afterschool programs, or health and mental health services, produces outcomes that chronically disfavor Latinx youth and have a direct impact on whether they enter the justice system.<sup>6</sup>
- Researchers have documented that Hispanic/Latinx youth endure unique and distinct types of trauma compared to white and black youth. For example, Hispanic/Latinx youth are more likely to live in disadvantaged neighborhoods and experience community violence compared with youth of other racial/ethnic groups. Latinx youth who have immigrated may also be uniquely impacted due to traumatic events in their country of origin stemming from political warfare, gang violence, drug cartels, and treatment during the migration process.<sup>7</sup>



\* LIMITATIONS: The focus on the experience and overrepresentation of Latinx youth in the juvenile legal system is a relatively new area of study and research on this topic is limited. This brief suggests possible reasons why Latinx youth are overrepresented in systems, but these suggestions are not intended to be exhaustive. The goal of this brief is to advance recommendations that system actors can adopt to build resilience among Latinx youth and to stem their flow into and through the juvenile legal system.

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- Hispanic/Latinx youth are hyper-criminalized through constant scrutiny and surveillance. They are often construed as dangerous, uneducable public enemies in and out of school, regardless of their actual behavior.<sup>8</sup>
- Hyper-criminalization of youth may result in “social death,” which can be experienced as a loss of identity, loss of ability to take part in daily activities, and loss of social relationships. This occurs when a youth is excluded from society in their own community even prior to detention or commitment.<sup>9</sup>
- Personal maladjustment, distressed interpersonal functioning, social isolation, and marginalizing experiences can place Latinx youth on antisocial, rather than prosocial, behavioral trajectories.<sup>10</sup>
- Other unique and common influences on Latinx youth development may include a legacy of intergenerational trauma (e.g., violence, poverty, discrimination, injustice, forced family separation, cultural genocide) that can impact family dynamics and ultimately create trauma for successive generations at the family, community, and individual levels.<sup>12</sup>

## Definitions

**Hispanic/Latinx:** The term “*Hispanic*” is commonly defined as “a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.”<sup>1</sup> Many feel that the term rejects both the indigenous cultures of the region and their association with brownness and gender fluidity.

The term “*Latinx*” emerged from a worldwide movement to use gender-neutral nouns and pronouns. It is also inclusionary of those of Afro-Latino backgrounds.<sup>2</sup>

**Hyper-criminalization:** The constant and unjust punishment of a person of color’s normal behaviors as deviant, risky, and threatening. Resulting in POCs feeling stigmatized, outcast, shamed, defeated, or hopeless as a result of these negative interactions.

**Social Death:** Refers to the ways minoritized populations are treated as outcasts and cast out from society and to the social suffering that results from both criminalization and dehumanization.

**Cultural Resilience:** The capability of a community to absorb adversity, deal with change and continue to develop.

• While Hispanic/Latinx youth have high educational aspirations, the inequalities in educational opportunities often impact their perception of available opportunities. Latinx youth are particularly aware of the injustices and societal expectations that create barriers to these opportunities.<sup>8</sup>

## Promising Practices:

***Reducing Hispanic/Latinx youth disparities requires an intersectional, culturally based, and multi-system approach and an unending dedication to utilizing several promising practices.***

### Positive Youth Identity Development

- Cultural resilience creates agency for Hispanic/Latinx youth who are hyper-criminalized. Things like dance, music, food, hairstyles, and clothing are all modes of cultural resilience, preservation, and resistance within the community.
- Youth who have a positive connection with their ethnic group may be protected from the negative consequences

of discrimination because they may have a strong sense of self and confidence in their group that helps them remain confident in the face of discriminatory experiences.<sup>8</sup>

- There is growing evidence that prosocial youth development, through a focus on cultural strengths and assets, correlates to other markers of health, social functioning, and wellbeing.<sup>12</sup>
- Centering blackness through deepening knowledge of Black Latinx history, including the ways in which slavery, colonization, racial denial, racism, and colorism have impacted Black Latinxs is essential. This includes working to understand the ways Black Latinxs are stigmatized and devalued as a group by both the dominant and Latinx cultures, and work to address the impact that such devaluation has on overall health and wellness.<sup>11</sup>
- Research on Latinx youth who identify as non-binary, fluid gender, or who are also members of a religious minority may help guide us to understand how to support youth at these intersections.<sup>12</sup>

## Community-Based Alternatives

- Positive, large-scale reinvestments in community infrastructure such as mental health counseling, violence reduction, and restorative justice programming are needed to reduce reliance on detention/treatment institutions for youth of color.<sup>4</sup>
- Given the importance of the family unit among most Latinx youth, parents, siblings, and extended family members are all potential sources of support.<sup>8</sup>
- Establishing community-based prosocial supports is vital to combat depressive symptoms, delinquency, low self-esteem, and substance use, and to promote academic performance, self-regulation, quality of interpersonal relationships, and moral development.<sup>10</sup>

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## Holding Institutions and Decision-Makers Accountable

- Schools and educators should review and rewrite policies and practices that may be perpetuating the criminalization and dehumanization of their students for behaviors, especially those that are manifestations of a student's disability, which can be addressed in other manners, such as the provision of services, supports, or accommodations.<sup>8</sup>
- Racial impact statements can be utilized to analyze the impact of new laws and policies prior to implementation so that unintended racial disparities are prevented, and measures can be taken to address racial disparities that currently exist.<sup>4</sup>
- Collecting race data from all decision makers touching the juvenile legal continuum, such as schools, police, and courts, is a necessary step toward understanding the evolution of disparities. Data can and should be readily available to the public.<sup>4</sup>
- Successful policy efforts for Latinx youth require moving beyond the reduction of pathology towards the promotion of health and well-being while also working to reduce racist systems of oppression.<sup>10</sup>



## Potential Outcomes

- Prosocial behaviors increase for youth
- Better physical and mental health outcomes for youth
- Lower rates of juvenile legal system involvement
- Well-funded, safer neighborhoods equipped with effective resources
- Increased real and perceived opportunities for Latinx youth
- Improved practices and greater accountability for decision makers and systems leaders
- Strengthened sense of community and belonging
- Positive self-perception and higher levels of confidence
- Greater opportunities to benefit from culture-specific mechanisms (cultural values, resilience, ethnic identities)

## Sources

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<sup>3</sup> The Sentencing Project. (2021). (rep.). *Latinx Disparities in Youth Incarceration* (pp. 1–2). Washington, D.C.

<sup>4</sup> Rovner, J. (2021). (rep.). *Racial Disparities in Youth Incarceration Persists* (pp. 1–17). Washington, D.C.: The Sentencing Project.

<sup>5</sup> Mossaides, M. Z. (2021). (rep.). *Office of the Child Advocate Annual Report Fiscal Year 2021* (pp. 1–44). Boston, MA: Office of the Child Advocate.

<sup>6</sup> Arya, Neelum and Augarten, Ian and Villaneuva, Cassandra and Villarruel, Francisco, *America's Invisible Children: Latino Youth and the Failure of Justice* (May 1, 2009). Available at SSRN: <https://ssrn.com/abstract=1892966> or <http://dx.doi.org/10.2139/ssrn.1892966>.

<sup>7</sup> David Hoskins. *Assessing Traumatic Experiences of Justice-Involved Latinx Youth A Systematic Review*, 06 August 2020, PREPRINT (Version 1) available at Research Square <https://doi.org/10.21203/rs.3.rs-52585/v1>.

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<sup>9</sup> Norwood, F. (2009). The Maintenance of Life: Preventing Social Death Through Euthanasia Talk and End-of-Life Care - Lessons from the Netherlands.

<sup>10</sup> Davis, Alexandra & Carlo, Gustavo & Maiya, Sahitya. (2021). Towards a Multisystems, Strengths-Based Model of Social Inequities in U.S. Latinx Youth. *Human Development*. 65. 10.1159/000517920.

<sup>11</sup> Adames, H. Y., Chavez-Dueñas, N. Y., & Jernigan, M. M. (2020, September 17). The Fallacy of a Raceless Latinidad: Action Guidelines for Centering Blackness in Latinx.

<sup>12</sup> Carlo, G., Murry, V.M., Davis, A.N. *et al.* Culture-Related Adaptive Mechanisms to Race-Related Trauma Among African American and US Latinx Youth. *ADV RES SCI* 3, 247–259 (2022). <https://doi.org/10.1007/s42844-022-00065-x>.

