

*BEHIND DESKS & BARS: THE
IMPACT OF LATINO
UNDERREPRESENTATION IN
THE WORKFORCE OF THE
CRIMINAL JUSTICE SYSTEM*

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The United States has the highest incarceration rate in the world with over 2 million people incarcerated in federal, state, or local prisons and jails (Rovner, and Porter). People of color - particularly Blacks and Latinos – play disproportionate roles in the American criminal justice system as they are *overrepresented* in the incarcerated population and *underrepresented* as personnel. The goal of my research is to explore the relationship between the regulatory institutions of the criminal justice system and the individuals who participate in the system, particularly focusing on the ways in which the absence of ethnic/cultural representation amidst professionals impacts the service quality and delivery offered by said institutions.

The regulatory institutions of the criminal justice system that I will focus on include law enforcement (police), the judiciary (attorneys and judges), and corrections (officers and staff), as they are the pillars of legal justice. Legal justice can also be understood as due process – the promise of legality and fair procedure. Notably stated in the American Constitution, under the Fifth and Fourteenth Amendments, no person shall be “deprived on life, liberty, or property without due process of law”. This Constitutional entitlement cannot be given and protected without the abiding commitments of the professionals who work in the criminal justice system. Therefore, it is of utmost importance that these institutions employ themselves with individuals who are representative, unbiased, and culturally sensitive to the unique experiences that American minorities face when dealing with the criminal justice system.

Overall, the significance of my work is rooted in the belief that the American criminal justice system is ethically and legally obligated to provide American citizens with equal and adequate services. The correlation between the high rates of Latinos who are incarcerated and the low rates of Latinos who are employed in the criminal justice system reveals deeply ingrained institutional issues that contribute to the ongoing crises of mass incarceration, institutional racism, and minority poverty across America. This issue has far reaching implications, both for the individuals and entities directly involved in the criminal justice system as well as for community leaders, advocates, policy makers, and scholars.

Literature Review

When looking at the disproportionate relationship that exists between Latinos that are involved in the criminal justice system as personnel and as incarcerated individuals, it poses the question - Does the lack of cultural representation among the professionals of the regulatory

institutions of the criminal justice system negatively impact the service quality and delivery that is offered to Latinos? Although there is robust existing theory which supports the idea that service providers that are culturally sensitive are better equipped to meet the needs of diverse populations, there is a gap in knowledge regarding how this particularly affects Latinos. Additionally, the information that is available only focuses on one specific institution at a time and fails to address their interconnected nature.

The literature which I am reviewing introduces the concepts and qualifications that are necessary for assessing the cultural sensitivity within a workplace as well as the effectiveness, quality, and delivery of services to Latinos. It individually analyzes the distinct groups involved in my work: the judiciary, law enforcement, and corrections – and identifies their unique issues with ethnic representation and the consequences and goals which stem from it. Furthermore, I also take into account the experiences and opinions of the targeted population (Latinos) with regard to the quality and manner of the services being offered by these institutions. The collective data obtained from these sources is then contextualized within the sphere of American poverty and used to better understand how mass incarceration and institutional racism key factors in generating and perpetuating wealth are, social, and political inequality (Aguilar, 19).

Relationship Building between Providers & Clients

Manoleas and Garcia (2003) explore institutional and organizational factors that may affect the relevance and fit of mental health services for Latinos. Their research can be extended to understand the qualities that would be most helpful in informing the development and provision of key services in the criminal justice professions. They explain how the relationships between Latinos and their clinicians is reliant on the cultural awareness, competence, and respect demonstrated by the health care professionals.

Latino clinicians' practice was distinguished by an overall focus on family context and functioning, a tendency to focus on strengths, contextual assessment of problems, and taking a strong advocacy role. Three salient issues that needed to be taken into consideration by clinicians were identified by the article; 1.) the necessity for an appraisal of any mistrust that a client may experience relating to differences in race-ethnicity with the clinician, and 2.) Spanish-dominant and proficient bilingual clients often had issues with language fluency and self-expression in English, 3.) the need for an assessment of the degree to which the client believes that talking

with a professional stranger about personal and family problems will be helpful and can assist in changing their circumstances. It is obvious that when dealing with issues that are extremely sensitive and intimate, comfortable and culturally sensitive relationships between providers and clients can make a huge impact on their service delivery. Apart from having the ability to understand a client with possible language barriers, providers also need to demonstrate their consideration of possible cultural barriers in the methods of communication between them and their clients.

Challenging Implicit Bias

Explicit biases are preferences, beliefs, and attitudes of which people are generally consciously aware of. In contrast, implicit biases are associations and reactions that emerge automatically, and often without awareness (Daumeyer, 2). The lack of awareness surrounding implicit biases makes them more difficult to address and amend. The role of implicit bias in the delivery of legal services and the ways in which it impedes understanding, communication, and effective representation is explored by Chopp (2017). Implicit bias is inextricably tied to culture since a person's multiple identities give rise to cultural affiliations which then create the basis for bias. This article builds on models of cross-cultural communication that can help lawyers "respect the cultural backgrounds of their clients, communicate with them more successfully, and tell their stories to decision-makers and negotiation partners with greater fidelity to the client's lived experience" (Chopp, 5). When lawyers are more mindful of their biases and take the necessary steps to reduce their effect, they are more effective and compassionate in their work and may reduce miscommunication and conflict in legal practice in scenarios where cultural differences are both apparent and hidden. Although it offers possible remedies to the legal education and code of ethics for lawyers, there is no better solution than simply increasing the number of Latino lawyers in the criminal justice system since they do not face the same barriers as non-Latinos regarding understanding and communicating with other members of the Latino community.

Commitment to the Latino Community

The trend of more effective communication and service delivery between Latino providers and Latino clients has also been reflected in the police force. Irlbeck (2008) expands on the claim that increased employment of Latino officers will enhance policing in Latino

communities based on assumptions that Latino officers share a common ethnic identity and have positive attitudes towards Latino community members. Though there has been minimal research done on this topic, this study states that in general, “officers with a salient ethnic identity detailed their participation in activities demonstrating a commitment to the Latino community”. In their personal lives, they were often involved with projects emphasizing service to the Latino community and in their professional lives, they actively sought assignments in the Latino community and worked proactively with the community (Irlbeck, 491). This supports the assumption that minority citizens will perceive both the presence of minority officers and their enactment of distinct behavioral patterns in a way that leads to the development of more positive attitudes towards the police as a whole.

Increasing Diversity in the Workplace

The desire to diversify and increase ethnic representation in the criminal justice workforce extends to the Corrections system. Morvin and Cunningham (2020) define different types of culturally commensurate experiences, events, activities, and interventions which Indigenous people in Canada find relevant for improving cultural diversity. Although Indigenous people in Canada and Latinos in America have distinct experiences with their racial and ethnic identity, they share similar themes of isolationism, racism, violence and poverty that impact the way they interact with their countries’ criminal justice systems. Morvin and Cunningham’s (2020) work can shed light on issues facing the Latino population in the U.S. since there is a clear parallel between them and Canadian Indigenous people.

The article mentions that a focus on legitimate representation in organizations is often connected with the idea that in an increasingly multicultural society, linking with a particular culture or ethnic group provides legitimacy and recognition of their importance. Barriers for Indigenous people are revealed from the way that Indigenous peoples and institutions are stigmatized or interpersonally rejected, discriminated against, and economically disadvantaged. The results emphasize organizational experiences which include events connecting to the community, selecting staff and decision- making and training experiences. These efforts create and enhance partnerships with Indigenous communities and individuals who can be helpful, given that a large number of clients in the criminal justice system are Indigenous.

Latino Population Growth in Prisons

Research by Morin (2008) examines the trends in incarceration for the US Latino populations and looks at some of the factors that contribute to the growth of the Latino population in state and federal prisons. The racialization of crime; the manner in which criminal justice policy is formulated and justified around the fear of crime; how the courts and the criminal justice system operate; and the role of the media in promoting negative images of Latinos are among the areas explored in discerning contributing factors. This article maintains that, while not identical, the Latino experience mirrors many patterns of domination and subordination endured by African Americans. Just as the institutions of slavery and Jim Crow provided the means to keep African Americans in a subordinate and confined position in physical, social, and symbolic space, the ghetto and ever-expanding prison system form a “carcel continuum” - a system that ensnares a supernumerary population of Latinos, who either reject or are rejected by the deregulated low-wage labor market, in a never-ending cycle between the two institutions. Additionally, discriminatory practices in the criminal justice system such as racial profiling, the excessive use of physical and deadly force, and harsher sentencing, impede relationships with the institutions of the criminal justice system, thus, leading to a cyclical system of oppression (“Latino Voices:...”).

Methodology

I plan on generating insight about how criminal justice institutions that are largely culturally isolated provide worse quality and delivery of their services to Latinos by comparing the percentage of Latinos employed by a particular sector of the institutions compared to their population rates and their white counterparts; analyzing surveys regarding Latinos’ feelings/attitudes of their jobs within the criminal justice system; and reviewing data regarding generational and cyclical poverty measurements which influence Latinos’ access to proper criminal justice resources. By looking closely at the practices of hiring, employee training, professional upward mobility, and diversity initiatives of the law enforcement, judiciary, and corrections institutions, we can better understand Latinos’ workplace roles and expectations. This will serve to inform readers about an institution’s priorities and professional negligence to both their Latino employees and the people they are meant to serve and protect.

Latino presence in society, the work force, and the economy

Mass incarceration in the United States is unique because it is both a product and cause of ethnic disparities between Whites and Latinos. To comprehend the extremity of the divergence, I will compare the existing data on the ethnic composition of the population, federal prison inmates, staff (correctional officers), police officers, and licensed lawyers. Additionally, I will include information about the real median household income for each group. The substantial differences in fair and equal representation in the justice and carceral system, as well as financial resources, expose key factors in the strained relationship that exists between the institutions of justice and Latino citizens.

White Americans make up 76.3% of the population (U.S. Census Bureau QuickFacts: United States). The Federal Bureau of Prisons provides statistics on the racial and ethnic composition of federal inmates and employees. However, their percentage of White inmates - 57.7% - is an inflated measurement because there was no distinction made between Non-Hispanic Whites and Latinos. On the other hand, this distinction was present in the ethnic/racial percentages of staff revealing that 61.9% of correctional officers are Non-Hispanic White. On a separate but related note, 67% of police officers are White (Police Officers), 86% of all lawyers are White (Lawyers by Race & Ethnicity) and the median household income of white households in 2020 was \$74,912 (Statista Research Department).

In contrast, Latinos make up 18.5% of the population (U.S. Census Bureau QuickFacts: United States), 30.6% of federal inmates, 13.2% of federal correctional staff (“By the numbers”) 11% of police officers (Police Officers), and 5% of lawyers. Their median household income in 2020 was \$55,321 (Statista Research Department). As we can see, Latinos have much higher rates of incarceration than whites. In federal prisons, there are more than double the amount of Latino inmates as there are Latino staff and throughout the U.S., there is an absence of Latino police officers. Furthermore, Latinos are severely underrepresented as lawyers – a fact that is only worsened by the significant overrepresentation of whites in the same field. To top it off, there is almost a \$20,000 difference between the median household income of white and Latino families.

Collectively, these inequalities are what lay the foundation for the ethnic subjugation of Latinos in the justice system. The firm exclusion of Latinos from positions of power within the

justice system, along with the isolation from society through incarceration and poverty, allows the central institutions of justice to provide Latinos with substandard services and delivery.

Latino's attitudes about their jobs

Information regarding the attitudes of Latinos who participate in the American justice workforce is virtually non-existent, especially for federal correctional officers and staff. In an effort to at least partially capture this data, I turn to a more general federal employment report which incorporates anecdotal information from Hispanic correctional officers regarding feelings about their employment opportunities and experiences. This revealed that Hispanic community members attributed their low retention rates as federal employees to being unable to advance in their federal careers and being subjected to discrimination by peers and superiors (Federal Hispanic Work Group). This likely leads to disappointment with their work situation which can explain them leaving for other positions.

As previously noted in (Morven & Cunningham, 2020), legitimate organizational representation for minority groups requires addressing issues of upward mobility and interpersonal discrimination. As long as the federal government continues to fail to remove these barriers, Latino employees' job satisfaction will remain low, thus, leading to more resignations which will only accentuate the problem of work force underrepresentation for Latinos in the judicial sphere.

In the case of Hispanic police officers, 63% say their work often or nearly always makes them feel proud, and 47% say their work often or nearly always makes them feel fulfilled (Lopez & Krogstad, 2020). When paired with Irlbeck's characterization of Latino officers as agents who are actively committed to serving their community both in their personal and professional lives, these attitudes are unsurprising and indicative of the positive influence that increased ethnic representation can have on communities of color.

Lastly, studies show that 72% of minority attorneys report the same satisfaction (satisfied/very satisfied) as their white counterparts despite facing work place discrimination, earning less and working in nominally lower status positions. Additionally, Latino attorneys are almost 51% more likely to be satisfied with their decisions to attend law school than similarly situated white attorneys. The paradox of minority attorney satisfaction can be explained by differences in career assessment measures. Latinos tend to be more interested than whites in

serving, and seeking justice for, their historically disadvantaged communities. Moreover, their satisfaction is unaffected by their income, as well as partnership status (Markovic & Plickert, 2019).

Hispanic attorney's commitment to helping underprivileged people, as well as their distinguished abilities to understand and communicate with culturally diverse clients (Chopp, 2017), make them indispensable in the fight for more equitable and effective legal services for Latinos and other marginalized groups. Although minority attorneys tend to feel positively about their roles in the legal workforce, this does not mean that their efforts should continue to go unnoticed and underappreciated.

Poverty and the Criminal Justice System

Throughout their lives, Latinos – especially those with low-income - confront a multitude of cumulative disadvantages which significantly increase their involvement in the criminal justice system. “Such disadvantages range from lack of access to prenatal and other health and mental health care, to unstable parenting, to insufficient and ineffective early childhood interventions, to inadequate responses when abuse or neglect or other crises arise, to racial and economic disparities and inequities in education, child welfare and the juvenile and criminal justice systems” (Murray, 2019). For Latinos, the detriment of incarceration is compounded by every phase of the criminal justice system.

Research shows that Latinos receive harsher treatment in arrests, pretrial proceedings, and sentencing than whites, even when charged with the same offense. Latinos are less likely to be released from jail on their own recognizance, more likely to be denied bail, and are faced with bails that are approximately \$25,000 higher than others under similar circumstances.

Additionally, they are deeply impacted by “mandatory minimum” sentences as they are punished with incarceration at much higher levels than whites (Latino Voices).

Due to the interconnected nature of these barriers, it is unwise and unproductive to address them individually. Instead, it must be understood that changes in one area either directly or indirectly influence the others. Latinos' lower participation, salaries, and positions in the workforce of the criminal justice institutions restricts their ability to influence the greater system in a way that is helpful to their communities. In summary, Latinos are poorly served by current policies and practices in the criminal justice system.

Ethics

Martha Nussbaum's view of the person relies on two assumptions; "all, just by being human, are of equal dignity and worth, no matter where they are situated in society, and that the primary source of this worth is a power of moral choice within them". Additionally, she claims that this moral equality gives people fair claim to treatment from social and political institutions that respects and promotes the liberty of choice, as well as the equal worth of individuals as choosers. Her recognition of the hierarchy that exists based on people's gender, rank, class, religion, etc., is a key factor in her theory's relation to the treatment of people embedded throughout the criminal justice system. It is important to note that Nussbaum's perspective extends to individuals that are already incarcerated or in the process of being incarcerated. Although individuals who commit crimes forfeit some of their freedoms and civil liberties, their humanity always remains intact and should continue to be treated with respect and dignity.

Nussbaum's theory of justice and human rights is based on Amartya Sen's capabilities approach which focuses on what the people of a community are able to do and be (human functioning). This approach considers "the needs that individuals have for resources and their diverse abilities to convert resources into functioning". Nussbaum lists ten capabilities that are required for a fully realized human life, but I will focus specifically on how *bodily integrity*, *affiliation*, and *control over one's environment* are directly related to the relationship between Latinos and the institutions of the criminal justice system.

Bodily integrity refers to the ability to move freely from place to place, among other things. As I've previously noted, when the criminal justice system employs individuals that are not representative or understanding of the population they are meant to serve, there is an imbalance in the types and severity of legal punishments that are allocated. The bodily integrity of Latino defendants is more heavily restricted than others through unequal sentencing practices and inadequate access to proper justice resources.

Affiliation refers to the ability to show concern and compassion for other human beings, engage in various forms of social interaction, have the capability for justice and friendship, and be treated as a dignified being whose worth is equal to that of others. It is clear that in the criminal justice system, Latino defendants and convicted individuals are not treated as equals of their white counterparts and have limited capability for justice. Though Latinos experience a

variety of cumulative disadvantages that make them more vulnerable to breaking laws and being harshly prosecuted for it, current justice policies, practices, and providers do little to address Latinos' specific needs and concerns. Additionally, Latino employees of the corrections, judiciary, and police institutions are unable to properly serve their Latino communities since they themselves are being treated unequally. Faced with workplace discrimination, lower wages and less promotions, Latino employees of the justice system are also treated as being lesser than their white peers.

Lastly, control over one's environment is split into two categories, political and material. Political refers to being able to participate effectively in political choices that govern one's life, having the rights of political participation, and free speech. Material refers to being able to hold property and having the right to seek employment on an equal basis with others. Of course, Latinos who are found guilty of committing a crime face an array of limitations on these liberties. However, my greatest concern is how a lack of cultural representation in the justice system severely impacts the ability for Latinos to maintain these capabilities *before* being convicted. Further, the influence that police officers, corrections staff, lawyers, and judges, have on the justice system and the outcomes for defendants is direct and impactful. However, when Latinos are excluded from or discriminated against in these positions, the power they have to reform the system is dramatically minimized.

Possible solutions

Overall, the significance of my work is rooted in the belief that the American criminal justice system is ethically and legally obligated to provide American citizens with equal and adequate services. Legal justice can be understood as due process – the promise of legality and fair procedure. Notably stated in the American Constitution, under the Fifth and Fourteenth Amendments, no person shall be “deprived on life, liberty, or property without due process of law”. This Constitutional entitlement cannot be given and protected without the abiding commitments of the professionals who work in the criminal justice system.

The correlation between the high rates of Latinos who are incarcerated and the low rates of Latinos who are employed in the criminal justice system reveals deeply ingrained institutional issues that contribute to the ongoing crises of mass incarceration, institutional racism, and minority poverty across America. This issue has far reaching implications, both for the

individuals and entities directly involved in the criminal justice system as well as for community leaders, advocates, policy makers, and scholars. Therefore, it is of utmost importance that these institutions employ themselves with individuals who are representative, unbiased, and culturally sensitive to the unique experiences that American minorities face when dealing with the criminal justice system.

Furthermore, the Latinos, (as well as all other non-white and minority groups) employed by these institutions should be guaranteed equal pay, promotional opportunities, and non-discriminatory workspaces in order to ensure that they are working to the best of their abilities and doing everything they can to serve Latino communities.

Lastly, there is an extraordinary need for comprehensive research regarding the experiences of Latinos who are involved in the criminal justice system. By ignoring influence and importance of ethnicity and grouping Latinos into a general 'white' category, or simply excluding them from the conversation, inconsistent and inaccurate information negatively shapes the way we understand their unique roles and challenges in the system.

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