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# Imprisoned Hispanic/Latinx Individuals Need Access to Culturally Competent Mental Health Treatment

*Why a lack of cultural competency means Hispanic/Latinx inmates  
are not receiving necessary mental health treatment*

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“Before I built a wall I’d ask to know,  
What I was walling in or walling out.”  
–Robert Frost, “*Mending Wall*”<sup>1</sup>

## I. INTRODUCTION

Four-in-ten Hispanic/Latinx individuals living in the United States said that they had serious concerns about their place in “Trump’s” America after the 2016 election.<sup>2</sup> One research study found that President Trump’s immigration policies have created psychological stress, and symptoms of anxiety and depression, for nearly two-thirds of Hispanic/Latinx parents, both citizens and undocumented immigrants.<sup>3</sup> Despite the public and

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1. ROBERT FROST, COMPLETE POEMS OF ROBERT FROST (Henry Holt & Co. ed., St. Martin’s Paperbacks, 2002) (1916).

2. Pew Research Center Staff, *Latinos and the New Trump Administration*, PEW RESEARCH CENTER 1, 4 (Feb. 23, 2017), [https://pewhispanic.org/wp-content/uploads/sites/5/2017/02/Latinos\\_Trump\\_FULLREPORT.pdf](https://pewhispanic.org/wp-content/uploads/sites/5/2017/02/Latinos_Trump_FULLREPORT.pdf).

3. Caitlyn Phung, *Trump immigration policies take mental toll on Latino parents, study finds*, G.W. HATCHET (Mar. 22, 2018), <https://gwhatchet.com/2018/03/22/trump-immigration-policies-take-mental-toll-on-latino-parents-study-finds/>.

political mischaracterizations that Hispanic/Latinx immigrant communities are riddled with “criminals, rapists, drug dealers, etc.,”<sup>4</sup> research has shown that the involvement of Hispanic/Latinx immigrants in crime is less than that of U.S. citizens and any other racial or ethnic group.<sup>5</sup> In fact, Hispanic/Latinx individuals are disproportionately incarcerated, being convicted for minor non-violent offenses and/or are first time offenders.<sup>6</sup>

Moreover, Hispanic/Latinx individuals are incarcerated in both U.S. state and federal prisons 2.6 times greater than whites.<sup>7</sup> Because of this, Hispanic/Latinx inmates have been found to be the fastest growing minority group incarcerated.<sup>8</sup> A primary way to reduce mental health treatment disparities among Hispanic/Latinx inmates is introducing cultural competency care. While more research is needed in this area, this article merely scratches the surface at understanding the intersections of these issues. A lack of cultural competency within the U.S. criminal justice system has been found to exacerbate incarceration for Hispanic/Latinx individuals living with mental illness.<sup>9</sup> Once incarcerated, Hispanic/Latinx inmates are

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4. Michelle Ye Hee Lee, *Donald Trump's False Comments Connecting Mexican Immigrants and Crime*, WASHINGTON POST (Jul. 8, 2015), [https://www.washingtonpost.com/news/fact-checker/wp/2015/07/08/donald-trumps-false-comments-connecting-mexican-immigrants-and-crime/?utm\\_term=.057ac4c92797](https://www.washingtonpost.com/news/fact-checker/wp/2015/07/08/donald-trumps-false-comments-connecting-mexican-immigrants-and-crime/?utm_term=.057ac4c92797) (quoting President Trump's presidential announcement speech on July 6, 2015).

5. Jose Luis Morin, *Latino/as and U.S. Prisons*, IN BEHIND BARS: LATINOS/AS AND PRISON IN THE U.S. 17, 29 (Suzanne Oboler ed., 2009).

6. *Id.*; “In New York City, Hispanics/Latinx are arrested nearly four times as often as whites for drug possession, even though government records consistently indicate that whites are more likely than any other racial or ethnic group to use and sell drugs. Additionally, in California, Hispanics/Latinx were disproportionately represented in drug arrests in all cities within Los Angeles and Orange County, along with fifteen other major cities across the state. Finally, in Alhambra, a city with a population of 85,949, Latinos made up only 35.5% of the population but 74.6% of marijuana arrests.” Aaron Cantú, *Latinos and Mass Incarceration: The Dust Under the Rug*, LATINO REBELS (Jan. 7, 2014, 10:41 AM), <https://latinorebels.com/2014/01/07/latinos-and-mass-incarceration-the-dust-under-the-rug/>.

7. Morin, *supra* note 5, at 17-18.

8. Morin, *supra* note 5, at 17.

9. Primm, *infra* note 32, at 560-61.

not receiving necessary mental health treatment.<sup>10</sup> Thus a cycle perpetuates and Hispanic/Latinx individuals have not been at the forefront of the lack of cultural competency in prisons debate.<sup>11</sup> The current perceptions of Hispanics/Latinx and a deeply rooted history of racial bias in this country confirm the need for tailored, culturally appropriate solutions to some of the U.S.'s primary problems, namely, a growing Hispanic/Latinx inmate population who lack culturally competent mental health treatment.

The choices made by the U.S. to vilify and instill fear through hateful rhetoric about an entire racial/ethnic group,<sup>12</sup> and to incarcerate at higher rates rather than treat mental illnesses has burdened Hispanic/Latinx communities, increased stigma, and decreased resources for individuals seeking treatment.<sup>13</sup> This article looks at the criminal justice system as an

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10. Kaba, *infra* note 37, at 1915; PAULA M. DITTON, U.S. DEP'T OF JUSTICE BUREAU OF JUSTICE STATISTICS, OFFICE OF JUSTICE PROGRAMS, MENTAL HEALTH AND TREATMENT OF INMATES AND PROBATIONERS, STATE AND FEDERAL, 9 (Jul. 1999), [https://prisonlegalnews.org/media/publications/bojs\\_mental\\_health\\_and\\_treatment\\_of\\_inmates\\_and\\_probationers\\_1999.pdf](https://prisonlegalnews.org/media/publications/bojs_mental_health_and_treatment_of_inmates_and_probationers_1999.pdf).

11. See Cantú, *supra* note 6 (comparing how a number of influential African-Americans have spoken out against mass incarceration, Hispanic/Latinx leaders have proven inept); see also Nancy E. Walker et al., *Lost Opportunities: The Reality of Latinos in the U.S. Criminal Justice System*, NAT'L. COUNCIL OF LA RAZA/UNIDOSUS v (noting that Hispanics/Latinx were rarely included in policy debates in the criminal justice field and virtually invisible in the majority of key studies and publications in the field, with a number of states and federal agencies not collecting nor publishing Hispanic/Latinx criminal justice data up until 2004).

12. See e.g., Bobby Azarian, *A Neuroscientist Explains How Trump's Rhetoric Can Warp a Person's Brain Into Thinking Domestic Terrorism is Justifiable*, RAW STORY (Nov. 1, 2018, 3:41 PM), <https://rawstory.com/2018/11/neuroscientist-explains-trumps-rhetoric-can-warp-persons-brain-thinking-domestic-terrorism-justifiable/> (discussing how Donald Trump's political tactic of choice is fear mongering, framing minority groups like Hispanics/Latinx as being an existential threat to Americans); Yascha Mounk, *Trump's Speech Was Too Effective for Comfort*, SLATE (Jan. 8, 2019, 10:52 PM), <https://slate.com/news-and-politics/2019/01/trumps-immigration-speech-wall-effective.html> (commenting on Donald Trump's address to the nation being filled with habitual lies and misrepresentations to instill fear in the hearts of millions of viewers); Adam Goodman, *The Core of Donald Trump's Immigration Policy? Fear*, WASHINGTON POST (Aug. 24, 2017), <https://washingtonpost.com/news/made-by-history/wp/2017/08/24/the-core-of-donald-trumps-immigration-policy-fear/> (discussing Donald Trump's immigration policy as using draconian rhetoric and harsh proposals in the hopes of scaring people into the shadows or out of the country).

13. See Primm, *infra* note 32, at 560-61 (discussing the lack of mental health services available in jails and prisons leading to dramatic increases of individuals with mental illness

incubator of racial bias and lack of cultural competency, particularly for Hispanic/Latinx inmates who need necessary mental health treatment. Part II of this article illustrates mental illness and the Hispanic/Latinx community, including the historical and sociocultural factors that make up this diverse group. Part III highlights U.S. incarceration, lack of cultural competency, and racial bias as leading factors in Hispanic/Latinx individuals forgoing mental health treatment or not being able to receive treatment at all. Finally, Part IV argues that the primary solution to improving mental health care for Hispanic/Latinx inmates is increasing cultural competency of criminal justice personnel and mental health providers by looking at the state of Pennsylvania as a “case study” for why cultural competency in prisons is vital.

## II. MENTAL ILLNESS AND THE HISPANIC/LATINX COMMUNITY

According to the United States Census Bureau, Hispanic or Latino/a (Hispanic/Latinx) refers to an ethnic social construct of individuals who identify as “Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race.”<sup>14</sup> There has been a steady growth of Hispanic/Latinx residents in the U.S., being 17.8 percent of the total population, and projected to comprise of 28.6 percent of the total

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being involved with the criminal justice system); *see also* Elizabeth Tobin Tyler & Bradley Brockmann, *Returning Home: Incarceration, Reentry, Stigma and the Perpetuation of Racial and Socioeconomic Health Inequity*, 45 J. L. MEDICINE & ETHICS 545, 545 (2017) (describing the intersections of race, incarceration, and health disparities and the role of law and public policy in shaping disparate impact).

14. Karen R. Humes et al., *Overview of race and Hispanic origin: 2010*, U.S. CENSUS BUREAU 1, 2 (Mar. 2011), <http://census.gov/prod/cen2010/briefs/c2010br-02.pdf>; Latinx is the gender-neutral alternative to Latino/Latina used by an increasing number of scholars, activists, and journalists. It is a more inclusive term for individuals of intersecting identities. Tanisha Love Ramirez & Zeba Blay, *Why People Are Using The Term 'Latinx'*, HUFFINGTON POST, [https://huffingtonpost.com/entry/why-people-are-using-the-term-latinx\\_us\\_57753328e4b0cc0fa136a159](https://huffingtonpost.com/entry/why-people-are-using-the-term-latinx_us_57753328e4b0cc0fa136a159) (last updated Oct. 17, 2017).

population within the next decade.<sup>15</sup> Nearly two-thirds, 64 percent, of Hispanics/Latinx individuals in the U.S. were born in the U.S.<sup>16</sup> The composition of the U.S. Hispanic/Latinx population is predominated by those of Mexican origin at 64 percent, while Puerto Ricans and Cubans represent 9 percent and 3.5 percent of the Hispanic population, respectively.<sup>17</sup>

*A. Historical and Sociocultural Factors of the Hispanic/Latinx Community*

The U.S. Hispanic/Latinx population is heterogeneous in their historical and sociocultural makeup, and it often goes unnoticed.<sup>18</sup> To better understand their mental health needs, which in turn, will allow for tailored, culturally appropriate services, it is important to examine both the shared and unique experiences of different groups of Hispanic/Latinx individuals.<sup>19</sup> Hispanics/Latinx are highly concentrated in the Southwest region, New York, Florida, and Illinois.<sup>20</sup> Immigrants from Cuba, Mexico, and Central America are drawn to the Southwest and Florida because of its proximity to their home countries, employment opportunities, and established Hispanic/Latinx communities, which may help them find jobs.<sup>21</sup> In general, Hispanics/Latinx are considered to be family oriented, have less formal

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15. U.S. CENSUS BUREAU, FACTS FOR FEATURES: HISPANIC HERITAGE MONTH 2017, <https://census.gov/newsroom/facts-for-features/2017/hispanic-heritage.html> (last updated Aug. 3, 2018).

16. Jeanne Batalova & Aaron Terrazas, *Frequently Requested Statistics on Immigrants and Immigration in the United States*, MIGRATION POL. INST. (Dec. 9, 2010), <https://migrationpolicy.org/article/frequently-requested-statistics-immigrants-and-immigration-united-states-1/>.

17. Seth Motel & Eileen Patten, *The 10 Largest Hispanic Origin groups: Characteristics, Rankings, Top Counties*, PEW RESEARCH CENTER 4, <https://diversity.va.gov/calendar/files/hhm-pew-research.pdf> (last updated Jul. 12, 2012).

18. U.S. DEP'T OF HEALTH AND HUMAN SERVICES OFFICE OF THE SURGEON GENERAL, *Mental Health in Hispanic Americans*, in MENTAL HEALTH: CULTURE, RACE, AND ETHNICITY 127, 129 (Aug. 2001) [hereinafter HHS OFFICE OF THE SURGEON GENERAL].

19. *Id.*

20. *Id.* at 131; Approximately half of all Hispanics/Latinx live in California and Texas. *Id.* at 130.

21. *Id.* at 130-31.

education than the national average, and suffer from more health concerns than whites.<sup>22</sup> Hispanics/Latinx are also less likely to receive child support, more likely to have uninsured children, and the most likely to report being in fair or poor health.<sup>23</sup> Moreover, the economic status of Hispanic/Latinx individuals parallels the political and historical circumstances of their immigration to the U.S.<sup>24</sup>

### *B. Mental Health*

In 2012-2013, over 8.9 million Hispanics/Latinx in the U.S. had a diagnosable mental illness.<sup>25</sup> Yet, in 2014, only 8.3 percent of Hispanics/Latinx received some type of mental health treatment or counseling, compared to 18 percent of whites.<sup>26</sup> Moreover, Hispanics/Latinx are more likely to report poor communication with their health care provider, a factor often attributed to Hispanics/Latinx forgoing treatment.<sup>27</sup> Additionally, the American Psychological Association (APA) found that bilingual patients were evaluated differently in English and Spanish when it came to depression and anxiety questionnaires, potentially leading to under-

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22. *Id.* at 131-32.

23. *Hispanic Prisoners in the United States*, THE SENTENCING PROJECT (Aug. 2003), <https://static.prisonpolicy.org/scans/sp/1051.pdf>.

24. HHS OFFICE OF THE SURGEON GENERAL, *supra* note 20, at 132 (“Cuban Americans are more affluent in standing than Puerto Ricans and Mexican Americans, as reflected in median family incomes (Cubans, \$39,530; Puerto Ricans, \$28,953; Mexicans, \$27,883), the percentage of persons below the poverty line (Puerto Ricans, 31%; Mexicans, 27%; Cubans, 14%) and the unemployment rates of persons 16 years and older (Puerto Ricans, 7%; Mexicans, 7%; Cubans, 5%). It has been documented that elite Cuban immigrants have contributed in part to the relatively strong economic status of Cuban Americans. This experience stands in contrast to those of Mexican, Puerto Rican, and Central American heritage, most of whom came to the United States as unskilled laborers.”); Moreover, the shared lived experience of immigrating or experiencing difficult social conditions in one’s new environment has been cited as both a factor in adhering to family ties and a common misconception about the U.S. Hispanic/Latinx population. *Id.* at 133.

25. *Latino/Hispanic Communities and Mental Health*, MENTAL HEALTH AM., (Nov. 5, 2013), <https://mentalhealthamerica.net/issues/latinohispanic-communities-and-mental-health>.

26. *Id.*

27. *Id.*

or misdiagnoses.<sup>28</sup> U.S. studies have also linked depression and anxiety with Type 2 diabetes and obesity in the Hispanic/Latinx community, common and costly chronic diseases amongst Hispanics/Latinx.<sup>29</sup>

Research is scarce as to whether or not Hispanic/Latinx individuals or communities have a negative attitude toward mental health care, which is commonly cited as the reason Hispanics/Latinx have lower treatment and access to care rates.<sup>30</sup> Instead, the research suggests that structural barriers, including incarceration, language, not wanting to be labeled as “*loco*” (crazy), economic status, and not wanting to discuss private matters in public, have played more of a role in forgoing mental health treatment than general attitudes.<sup>31</sup>

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28. Sadie F. Dingfelder, *Closing the gap for Latino patients*, 36 AM. PSYCHOLOGICAL ASS'N. (Jan. 2005), <http://apa.org/monitor/jan05/closingthegap.aspx>; NAT'L ALLIANCE ON MENTAL ILLNESS, *Latino Mental Health*, <https://nami.org/Find-Support/Diverse-Communities/Latino-Mental-Health> (last visited Apr. 24, 2019) (explaining how Hispanics/Latinx may describe the symptoms of depression as “*nervios*” (nervousness), tiredness, or a physical ailment); Hispanic/Latinx inmates in particular often report physical problems like stomach pains and headaches instead of expressing that they might be depressed, or they attribute symptoms to drug use rather than mental illness, as this carries less cultural stigma. Erika Parkard, *Cultural education goes both ways in U.S. prisons*, 36 AM. PSYCHOLOGICAL ASS'N. (Nov. 2005), <https://apa.org/monitor/nov05/prisons.aspx>; Reena Kapoor et al., *Cultural competence in correctional mental health*, 36 INTERNAT'L J. LAW AND PSYCHIATRY 273, 274 (2013).

29. Humberto Marin et al., *Mental Illness in Hispanics: A Review of the Literature*, 4 FOCUS 23, 26 (2006).

30. NATIONAL ALLIANCE ON MENTAL ILLNESS, *supra* note 28.

31. NATIONAL ALLIANCE ON MENTAL ILLNESS, *supra* note 28. These characteristics also shape how one enters into treatment and the perceptions of effectiveness of treatment. Individuals ordered into mental health care, either by family member pressure or legally coerced by issuance of court orders for commitment, are more likely to be Hispanic/Latinx compared to persons who entered into care independently. *People ordered into mental health care less likely to perceive it as helpful*, SCIENCE DAILY (Oct. 15, 2018), <https://sciencedaily.com/releases/2018/10/181015113542.htm>.



### III. INCARCERATION AND RACIAL BIAS AS ADDITIONAL BARRIERS TO HISPANIC/LATINX INDIVIDUALS RECEIVING CARE

The failure of Hispanic/Latinx inmates receiving adequate mental health care can be explained by several factors, including rates of incarceration and racial bias.<sup>32</sup>

#### *A. Incarceration*

In a nation that professes a devotion to liberty, freedom, and justice for all,<sup>33</sup> there are 302,900 Hispanic/Latinx individuals in federal and state prisons and local jails, making up slightly over 15 percent of the U.S. inmate population.<sup>34</sup> Hispanics/Latinx are also the fastest growing incarcerated group in state and federal prisons, increasing from 10.9 percent in 1985 to 15.6 percent in 2001.<sup>35</sup> As a result, one of every six Hispanic/Latinx males and one of every 45 Hispanic/Latinx females born in 2007 can expect to go to prison in his, her, or their lifetime.<sup>36</sup>

Generally, the U.S. incarcerates more individuals with severe mental illness than it hospitalizes, and access to care for persons with mental health concerns is inextricably linked to the U.S. criminal justice system.<sup>37</sup> The

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32. Allen J. Beck, Jennifer C. Karberg, & Paige M. Harrison, *Prison and Jail Inmates at Midyear 2001*, U.S. DEPT. OF JUSTICE BUREAU OF JUSTICE STATISTICS 1, 12, <https://bjs.gov/content/pub/pdf/pjim01.pdf> (last updated May 10, 2002); Annelle B. Primm et al., *Race and Ethnicity, Mental Health Services and Cultural Competence in the Criminal Justice System: Are we Ready to Change?*, 41 COMM. MENTAL HEALTH J. 557, 557 (2005).

33. Booker, *infra* note 45.

34. Beck, *supra* note 32, at 12.

35. THE SENTENCING PROJECT, *supra* note 23; PAIGE M. HARRISON & ALLEN J. BECK, U.S. DEP'T OF JUSTICE BUREAU OF JUSTICE STATISTICS, PRISONERS IN 2001, 11 (July 2002), <https://bjs.gov/content/pub/pdf/p01.pdf>.

36. MARC MAUER & RYAN S. KING, THE SENTENCING PROJECT, UNEVEN JUSTICE: STATE RATES OF INCARCERATION BY RACE AND ETHNICITY 2 (Jul. 2007), <https://sentencingproject.org/wp-content/uploads/2016/01/Uneven-Justice-State-Rates-of-Incarceration-by-Race-and-Ethnicity.pdf>.

37. *Id.* For example, "in 2014, the Cook County [of Illinois] Jail housed more inmates suffering from mental illness than the population of any psychiatric hospital in the United States, making it arguably the nation's largest mental health facility." TREATMENT

U.S. Department of Justice estimates that over half of all U.S. inmates suffer from a mental health concern.<sup>38</sup> Yet, groups at highest risk for incarceration – young black and Hispanic/Latinx men – have particularly low rates of meeting with mental health professionals.<sup>39</sup> Of all federal and state prisoners, Hispanic/Latinx inmates are the least likely to receive treatment for substance abuse, receiving less than half the treatment of whites.<sup>40</sup> Incarcerating Hispanic/Latinx individuals with mental illness at such alarming rates has lasting implications upon release, on inmates’ families, and creates burdens on state and local budgets and the health care and justice systems at large.<sup>41</sup>

### *B. Racial bias*

About half of Hispanics/Latinx in the U.S. (52 percent) have experienced

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ADVOCACY CENTER, ILLINOIS, <https://treatmentadvocacycenter.org/illinois> (last visited Apr. 24, 2019); Fatos Kaba et al., *Disparities in Mental Health Referral and Diagnosis in the New York City Jail Mental Health Service*, 105 AM J. PUBLIC HEALTH 1911, 1911 (Sept. 2015).

38. Press Release, U.S. Dep’t of Justice Bureau of Justice Statistics, Study Finds More Than Half of All Prison and Jail Inmates Have Mental Health Problems (Sept. 6, 2006) (“The findings represent inmates’ reporting symptoms” they experienced in the last year, “rather than an official diagnosis of a mental illness.”); Other studies have found the rate of mental illness among prison inmates to be three times higher than that of the general population. Lori A. Marschke, *Proving deliberate indifference: Next to impossible for mentally ill inmates*, 39 VALPARAISO U. L. REV. 487, 487 (2004).

39. Kaba, *supra* note 37, at 1915.

40. These rates are Hispanic/Latinx: 19 percent; Black: 25.7 percent; White: 39.5 percent. CHRISTOPHER J. MUMOLA, U.S. DEP’T OF JUSTICE BUREAU OF JUSTICE STATISTICS, SUBSTANCE ABUSE AND TREATMENT, STATE AND FEDERAL PRISONERS, 1997, 13 (Jan. 1999), <https://bjs.gov/content/pub/pdf/satsfp97.pdf>.

41. *Access to Mental Health Care and Incarceration*, MENTAL HEALTH AM., <http://www.mentalhealthamerica.net/issues/access-mental-health-care-and-incarceration> (last visited Apr. 24, 2019); NAT’L ALLIANCE ON MENTAL ILLNESS, *Jailing People with Mental Illness* <https://nami.org/Learn-More/Public-Policy/Jailing-People-with-Mental-Illness> (last visited Apr. 24, 2019); About 50 percent of all U.S. inmates reenter prisons within three years of release because of inadequate treatment and rehabilitation in the community. Anasseril E. Daniel, *Care of the Mentally Ill in Prisons: Challenges and Solutions*, 35 J. AM. ACAD. PSYCHIATRY L. 406, 406 (2007). Moreover, about half of inmates battling addiction are convicted of a new crime within three years, and inmates with a mix of mental illness and addiction are significantly less likely than others to find stable housing, work, and family support after leaving prison. The Spotlight Team, *There May Be No Worse Place For Mentally Ill People to Receive Treatment Than Prison*, BOSTON GLOBE (Nov. 25, 2016), [https://apps.bostonglobe.com/spotlight/the-desperate-and-the-dead/series/prisons/?p1=Spotlight\\_MI\\_Story\\_Explore](https://apps.bostonglobe.com/spotlight/the-desperate-and-the-dead/series/prisons/?p1=Spotlight_MI_Story_Explore).

discrimination or have been treated unfairly because of their race or ethnicity.<sup>42</sup> Research by the National Hispanic Media Coalition found that bias and flawed information affect many American's social and political decisions.<sup>43</sup> Citing to a 2015 research study on New York City's jail mental health, the author pointed out that at Rikers Island Prison Complex, "...white men were directed towards mental health services, while younger black and Hispanic[/Latinx] men were directed to solitary confinement, and self-harm. I don't think that fact reflects different rates of mental illness, I think it demonstrates racial bias."<sup>44</sup> Furthermore, despite little movement with criminal justice reform efforts, politicians are not blind to the detrimental effects of racial bias in our justice system. Senator and Presidential Candidate Cory Booker (D-New Jersey) wrote in a recent Washington Post opinion about the unfair disparity of sentencing for black and brown people, stating that

[U]naddressed racial bias in our justice system at all levels...has created a system where inputs and outcomes are more dependent on race and class than on guilt or innocence. It's created a justice system that is anything but just...You can tell a lot about a country by who it incarcerates. Some countries imprison journalists. Others political opponents. We imprison the poor, the addicted, the mentally ill, the survivors of abuse and sexual assault, and black and brown people. Our broken system is a cancer on the soul of our nation that preys upon our most marginalized populations.<sup>45</sup>

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42. Jens M. Krogstad & Gustavo Lopez, *Roughly Half of Hispanics Have Experienced Discrimination*, PEW RESEARCH CENTER: FACT TANK NEWS IN THE NUMBERS (June 29, 2016), <http://www.pewresearch.org/fact-tank/2016/06/29/roughly-half-of-hispanics-have-experienced-discrimination/>.

43. NATL. HISPANIC MEDIA COALITION, HATE SPEECH, INCITEMENT, AND HATE CRIMES IN THE U.S. (May 12, 2012), <http://nhmc.org/hate-speech-incitement-and-hate-crimes-in-the-u-s/>.

44. Manuel Villa, *The Mental Health Crisis Facing Women in Prison*, MARSHALL PROJECT (June 22, 2017), <https://themarshallproject.org/2017/06/22/the-mental-health-crisis-facing-women-in-prison>.

45. Cory Booker, *It's Time For the Next Step in Criminal Justice Reform*, WASHINGTON POST (Mar. 10, 2019), [https://washingtonpost.com/opinions/2019/03/10/cory-booker-its-time-next-step-criminal-justice-reform/?utm\\_term=.5f2b388de303](https://washingtonpost.com/opinions/2019/03/10/cory-booker-its-time-next-step-criminal-justice-reform/?utm_term=.5f2b388de303).

Focusing on ways to reduce racism in a culturally appropriate and competent manner is vital considering the disproportionate number of Hispanic/Latinx individuals incarcerated in the U.S. The racial makeup in prison necessitates mental health professionals working *with* Hispanic/Latinx inmates to ensure the provision of mental health treatment.<sup>46</sup>

#### IV. CULTURAL COMPETENCE AS A SOLUTION TO IMPROVED (AND INCREASED) MENTAL HEALTH TREATMENT

Cultural competency in criminal justice has been identified as a solution to ascertain the benefits of training, employment, and skills of mental health professionals in prisons.<sup>47</sup> It is the ability to meet the social, cultural, and linguistic needs of diverse populations groups.<sup>48</sup> “Culture” is a term that goes beyond race and ethnicity, as it encompasses a person’s norms, values, age, disability status, gender identity and expression, national origin, and religious and spiritual beliefs.<sup>49</sup> Cultural competence in correctional settings has been growing in importance as prison systems seek to improve mental health assessment and treatment.<sup>50</sup> Unfortunately, research has shown a lack of cultural competence in mental health care providers, resulting in misdiagnosis and inadequate treatment.<sup>51</sup> Moreover, culture, in the very broad sense of the term, can be a significant factor influencing individuals’ perceptions about the existence or cause of their own mental illness and their

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46. Kapoor, *supra* note 28, at 274.

47. Kapoor, *supra* note 28, at 275.

48. SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMIN., CULTURAL COMPETENCE, <https://samhsa.gov/capt/applying-strategic-prevention/cultural-competence> (last updated Nov. 10, 2016); *Cultural Competence in Health Care: Is it important for people with chronic conditions?*, GEORGETOWN U. HEALTH POLICY INST. (Feb. 2004), <https://hpi.georgetown.edu/agingsociety/pubhtml/cultural/cultural.html>.

49. AM. SPEECH-LANGUAGE-HEARING ASS’N, *Cultural Competence*, <https://asha.org/Practice-Portal/Professional-Issues/Cultural-Competence/> (last visited Apr. 24, 2019).

50. Primm, *supra* note 32, at 567.

51. NATIONAL ALLIANCE ON MENTAL ILLNESS, *supra* note 28.

ability to seek treatment.<sup>52</sup>

A cultural competency framework accounts not only for an institutionalization of values and principles that will surpass difference and improve understanding, but demands the criminal justice system to (1) value diversity, (2) conduct routine self-assessment, (3) manage difference, (4) acquire and institutionalize cultural knowledge, and (5) adapt to the diverse, cultural contexts of the communities incarcerated.<sup>53</sup> An understanding of cultural competency is critical for mental health treatment in jails and prisons because “decision-makers must be able to respond to the client’s humanity...and view culture from the individual’s perspective, avoid[ing] misinterpretation of culture as stereotype.”<sup>54</sup>

Yet, evaluation of mental health services among incarcerated individuals, particularly Hispanics/Latinx, through a cultural competency lens is scarce.<sup>55</sup> For instance, the American Psychiatric Association mandated the need for culturally competent systems of care, and the American Bar Association created a model curriculum on building community trust and cross-cultural communication.<sup>56</sup> Still, this has yet to benefit those incarcerated with little to no access to mental health treatment.<sup>57</sup> One study found that at every point of contact in the criminal justice system, Hispanic/Latinx participants

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52. Sean D. O’Brien, *When life depends on it: Supplementary guidelines for the mitigation function of defense teams in death penalty cases*, 36 HOFSTRA L. REV. 693, 754-55 (2008).

53. *Conceptual Frameworks/Models, Guiding Values and Principles*, NATL. CTR. FOR CULTURAL COMPETENCE, <https://nccc.georgetown.edu/foundations/framework.php> (last visited Apr. 24, 2019).

54. Michael L. Perlin & Valerie McClain, “*Where Souls Are Forgotten*”: *Cultural Competencies, Forensic Evaluations, and International Human Rights*, 15 PSYCHOLOGY, PUB. POLICY, & L. 257, 258-59 (2009).

55. Primm, *supra* note 32, at 566.

56. Primm, *supra* note 32, at 567; CULTURAL COMPETENCE AND PUBLIC DEFENSE MICHIGAN WORKGROUP, *BEYOND DIVERSITY: THE ROLE OF CULTURAL COMPETENCE IN AN EFFECTIVE MICHIGAN PUBLIC DEFENSE SYSTEM* 1, 6 (Apr. 2011),

<http://racialequitytools.org/resourcefiles/Culturalcompetence.pdf> [hereinafter CULTURAL COMPETENCE AND PUBLIC DEFENSE MICHIGAN WORKGROUP]. The ABA’s Criminal Justice Section created this model curriculum for judicial, prosecutorial, and defense agencies alike.

57. Primm, *supra* note 32, at 565-66.

reported inadequate cultural competence,<sup>58</sup> not only when accessing health services but in the majority of interactions with prison personnel.<sup>59</sup>

The state of Pennsylvania has looked at the role of cultural competency in its own criminal justice system and found it imperative to institute system-wide reform to ensure individuals were receiving necessary mental health treatment.<sup>60</sup> Pennsylvania found that prison staff, and especially mental health practitioners, need to have a baseline understanding of an inmate's beliefs about the criminal justice system to help address mental health concerns, cultural identity differences and, if applicable, immigrant experiences.<sup>61</sup> To effectively provide mental health treatment for Hispanic/Latinx inmates, Pennsylvania determined it needed, among other recommendations, more trained Spanish-speaking interpreters at every point of contact, bilingual and bi/multicultural mental health therapists and substance abuse treatment counselors, objective instruments to assess and screen for risk, psychological, and mental health concerns, and high quality cultural diversity and competency training for all justice system personnel,

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58. Inadequate cultural competence has been considered as attitudes, policies, and practices destructive to others, biased systems with low to no capacity to work with others, an assumption of cultural superiority, and forced assimilation/segregation. VISTACAMPUS, *Cultural Competence*, <https://vistacampus.gov/book/export/html/11068> (last visited Apr. 24, 2019). It has been studied in the child welfare context as the realization of not being able to “just practice your practice,” to consider your own place in the system and seek to shift what is not working (think actions, behaviors, and impact). That is, for instance, hiring community members, and doing more when providing services to clients, to better understand where they are coming from. One study participant discussed a lack of resources and states that “people knew exactly what the issues were and what they should be doing.” Patricia Johnston, *When cultural competence is inadequate: an opportunity for a new approach to child welfare in Nunavut*, Thesis, University of British Columbia, i, 90, 114 (Aug. 27, 2009); Susana Rinderle, *Cultural Competence: What's in a Name?*, WORKFORCE (Aug. 23, 2013), <https://workforce.com/2013/08/23/cultural-competence-whats-name/>. However, inadequate cultural competence can also be a misnomer as it implies there needing to be some sort of end point or box to be checked once “cultural competency” has been accomplished. “Providing the best, most appropriate services to a variety of people and populations is a moving target – fluid, contextual, and evolving.” *Id.*

59. Primm, *supra* note 32, at 566.

60. PUBLIC HEALTH MANAGEMENT CORPORATION, AN ASSESSMENT OF THE NEEDS OF LATINO YOUTH INVOLVED IN THE JUVENILE JUSTICE SYSTEM ii (May 26, 2009).

61. *Id.* at 34.

from police staff to its court system.<sup>62</sup>

Given this, cultural competency in the justice system would require systematic training of all personnel, direction by leadership and advisory groups, policies and principles that address treatment, linguistic assistance (language, illiteracy), and accountability.<sup>63</sup> A system-wide approach is necessary, and includes the buy-in from law enforcement, jail intake and treatment, courts, correctional settings, and community re-entry, not just the medical/public health community working with the criminal justice system.<sup>64</sup> These recommended changes from Pennsylvania can be scaled up to effectively meet the needs of Hispanic/Latinx inmates nationwide through culturally competent means, as these findings are not a single state's concern.

Some researchers consider cultural competency to simply mean linguistic or cultural diversity resulting in increased social tension, social segregation, workplace issues, and civil disengagement.<sup>65</sup> However, cultural competency

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62. *Id.* at ii-iii; Moreover, it determined that prevention and outreach through partnerships with Hispanic/Latinx service organizations and community leaders, and a coordination of efforts is necessary to improve Hispanic/Latinx contact with schools, community organizations, mental health providers, the police, the courts, and social service providers, to name a few; *Id.* at iii.

63. Primm, *supra* note 32, at 567-68.

64. Primm, *supra* note 32, at 567; For example, "Luis, a 15-year-old Latin[x male] with no previous record, was arrested for possessing less than ½ ounce of marijuana. During Luis' disposition hearing, the judge ordered him and his caseworker into chambers. As the judge talked to Luis, he noticed that the youth was not looking directly at him. The judge ordered the youth to look at him, which Luis did. But, as time progressed, Luis looked down again. The loss of eye contact infuriated the judge, whose words and tone of voice became harsher. The caseworker attempted to explain that Luis' downcast eyes were a sign of respect in his culture — youth who are being reprimanded in Luis' culture bow their heads to show their embarrassment at their actions. He explained that "staring down" authority figures is considered to be highly disrespectful. The judge, however, took Luis' downcast eyes as an admission of guilt, and sentenced him to two years in a juvenile facility." FRANCISCO A. VILLARRUEL ET AL., MICHIGAN STATE U. ¿DONDE ESTA LAW JUSTICIA? A CALL TO ACTION ON BEHALF OF LATINO AND LATINA YOUTH IN THE U.S. JUSTICE SYSTEM 53 (2002).

65. Andrew Button, *The Disadvantages of Cultural Diversity*, CLASSROOM, <https://www.theclassroom.com/the-disadvantages-of-cultural-diversity-12082787.html> (last visited Apr. 24, 2019); Eryl Quilao et al., Presentation on *This Language Thing: The Pros & Cons of Speaking One's Native Dialect at Work* at U. MARYLAND MED. CTR. (Oct. 19, 2010).

is a core requirement for mental health professionals, allowing for a person-centered approach (individualized, one-on-one assistance) to identify mental health concerns and find the best possible approach to treatment.<sup>66</sup> Despite the vast need of mental health services for many Hispanic/Latinx inmates, alone, a culturally competent approach may be insufficient to reach this goal as treatment is undermined by clinician shortages, diminishing access to medication and treatment, and widespread use of segregation as discipline.<sup>67</sup> Ensuring clinicians have the basic principles and ideas that serve as building blocks for culturally competent care in correctional mental health is only one step in the right direction.<sup>68</sup>

#### V. CONCLUSION

Cultural competency suggests a deeper understanding of how Hispanic/Latinx inmates' cultural background affects what they are willing to share with mental health professionals and justice personnel, and how certain practices or actions in federal and state prisons are perceived by other races, communities, and countries.<sup>69</sup> Understanding these concerns with a culturally competent approach, through improved research and data collection on Hispanic/Latinx inmates, will allow for a more effective targeting of policy and programs for increased access to care initiatives while incarcerated, and eliminate inequalities in Hispanic/Latinx mental health

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66. Kamaldeep Bhui et al., *Cultural competence in mental health care: a review of model evaluations*, 7 BMC HEALTH SRVS. RESEARCH 1, 1 (2007); Fabiana Franco, *The Challenge of Cultural Competence in Minority Mental Health Care*, GOODTHERAPY BLOG (Jul. 28, 2017), <https://goodtherapy.org/blog/challenge-of-cultural-competence-in-minority-mental-health-care-0728174>.

67. The Spotlight Team, *supra* note 41; Considered to be a “culture ruled by aggression and fear,” trust and openness between inmates, justice personnel, and mental health professionals is almost non-existent. The Spotlight Team, *supra* note 41.

68. Kapoor, *supra* note 28, at 274.

69. CULTURAL COMPETENCE AND PUBLIC DEFENSE MICHIGAN WORKGROUP, *supra* note 56, at 6.



treatment.<sup>70</sup>

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70. Marcia Carteret, *Addressing Disparities in Mental Health Care for Latinos*, DIMENSIONS OF CULTURE (May 16, 2016), <http://dimensionsofculture.com/2016/05/addressing-disparities-in-mental-health-care-for-latinos/>; Steven R. López et al., *La CLave to Increase Psychosis Literacy of Spanish-Speaking Community Residents and Family Caregivers*, 77 J. CONSULT CLIN. PSYCHOLOGY 763, 770 (Aug. 2009) (describing a psychoeducational program to increase Spanish-speaking person's literacy of psychosis).