



HNBA 2021 RESOLUTION IN SUPPORT OF CRIMINAL JUSTICE REFORM

WHEREAS, the Hispanic National Bar Association (“HNBA”) is an association created to represent the interests of Hispanic legal professionals and the Hispanic community, acting as a collective voice for issues of common concern to its members; and

WHEREAS, the HNBA is the national voice of its legal community and Hispanics in the United States and its territories and possessions; and

WHEREAS, the protests for racial justice that emerged in the summer of 2020 intensified the demands to address the disparate impacts of policing on communities of color and incentivized political space for criminal justice reform; and

WHEREAS, over-criminalization and an excessive reliance on punitive enforcement continue to feed the problem of mass incarceration to-date; and

WHEREAS, roughly 2.12 million people were incarcerated in the United States in 2020, placing the United States in the top five countries with the highest rate of incarceration¹; and

WHEREAS, the United States is home to five percent of the world’s population, but twenty percent of the world’s prisoners² and spends \$88.5 billion annually as the cost of operating the nation’s prisons, jails, and parole and probation systems³; and

WHEREAS, between 1980 and 2019, the number of incarcerated women increased by more than 700% as a result of financial obstacles such as inability to pay bail, more expansive law enforcement efforts, stiffer drug sentencing laws, and post-conviction barriers to reentry that uniquely affect women⁴; and

¹ <https://www.statista.com/statistics/262962/countries-with-the-most-prisoners-per-100-000-inhabitants/#:~:text=As%20the%20statistic%20above%20illustrates,large%20industrialized%20nations%20in%20incarceration.>

² <https://www.prisonpolicy.org/blog/2020/01/16/percent-incarcerated/>

³ <https://www.americanactionforum.org/research/the-economic-costs-of-the-u-s-criminal-justice-system/#ixzz6noIV6kdC>

⁴ <https://www.sentencingproject.org/publications/incarcerated-women-and-girls/>

WHEREAS, Hispanic women are imprisoned at 1.3 times the rate of non-Hispanic white women⁵; and

WHEREAS, Hispanics accounted for 23% of inmates, compared with 16% of the adult population⁶; and

WHEREAS, Hispanics experience family incarceration at rates slightly higher than white peers, but they are nearly twice as likely to have a family member in jail or prison for more than one year⁷; and

WHEREAS, research supports that Hispanics are among the minorities more likely to be convicted of an offense that requires a mandatory-minimum sentence that strips sentencing judges of their discretion at sentencing; and

WHEREAS, research suggests that among the major racial/ethnic groups, Hispanics are most likely to be required to pay bail to gain release, and on average receive the highest bail amounts, and are the group least able to pay bail; and

WHEREAS, one of the fundamental and immediate needs of prisoners upon release is employment and education; and

WHEREAS, research supports that after a certain number of years a lower-level felony conviction no longer supports a credible likelihood of recidivism; and

WHEREAS, law enforcement's use of body cameras provides benefits to the judicial fact-finding function by virtue of their ability to provide documented evidence that lends greater accuracy and credibility to court and jury determinations in contexts ranging from suppression hearings to jury verdicts; and

WHEREAS, five states had enacted laws that required at least some officers to use a body-worn camera, and thirteen states and the District of Columbia had approved funding opportunities for state and local law enforcement to purchase body camera equipment⁸; and

WHEREAS, although the United States has reduced youth incarceration over the last decade, youth of color continue to be impacted disproportionately. Hispanic youth are 42% more likely than their white peers to be incarcerated⁹; and

WHEREAS, out of the 52,000 confined youth, 8,300 are accused of status offenses or technical violations and 3,600 are immigrants awaiting placement with families or removal¹⁰; and

⁵ <https://www.sentencingproject.org/publications/incarcerated-women-and-girls/>

⁶ <https://www.pewresearch.org/fact-tank/2020/05/06/share-of-black-white-hispanic-americans-in-prison-2018-vs-2006/>

⁷ <https://www.fwd.us/news/coronavirus-disparity/>

⁸ <https://www.ncsl.org/research/civil-and-criminal-justice/body-worn-cameras-interactive-graphic.aspx#/>

⁹ <https://www.sentencingproject.org/publications/racial-disparities-in-youth-incarceration-persist/>

¹⁰ <https://www.prisonpolicy.org/reports/pie2020.html>

WHEREAS, almost 70,000 people are confined for immigration reasons, and 1 in 4 of ICE detainees are held in local jails¹¹; and

WHEREAS, Hispanics have consistently represented over 90% of those in immigration detention, prosecuted for immigration violations, and removed as “criminal aliens;”¹² and

WHEREAS, in 2019 ICE booked some 500,000 individuals into detention centers where two private companies make up 80% of the available beds and made about \$1.3 billion last year in contracts with ICE;¹³ and

NOW THEREFORE BE IT RESOLVED, that the HNBA supports any and all legislative and executive measures aimed at addressing sentencing disparities through revised statutory penalties, sentencing guidelines, expansion of alternative sentences, and a reinvigorated use of clemency;

NOW THEREFORE BE IT RESOLVED, the HNBA supports the issuance of guidance for federal prosecutors to encourage full implementation of resentencing provisions under the First Step Act;

NOW THEREFORE BE IT RESOLVED, the HNBA supports the expanding and funding of rehabilitative programs, particularly in federal prisons, so that everyone who wants to participate in vocational training, education, and other programs can do so;

NOW THEREFORE BE IT RESOLVED, that the HNBA supports adequate funding for prisoner re- entry programs, including those support programs that provide a high school diploma, GED and training in computer science and tech fields;

NOW THEREFORE BE IT RESOLVED, that the HNBA supports law enforcement’s use of body cameras in a manner that thoughtfully addresses privacy and Fourth Amendment protections, data storage and retention, open records laws and police training;

NOW THEREFORE BE IT RESOLVED, that the HNBA supports the use of best-available technologies, including the use of GPS devices, as an alternative to pre-trial and post-trial incarceration;

NOW THEREFORE BE IT RESOLVED, that the HNBA supports limiting permissible police use of deadly and non-deadly force, such as banning holds that restrict airways and instead promoting less-lethal weapons and techniques of control;

¹¹ <https://www.prisonpolicy.org/reports/pie2020.html>

¹² https://scholarship.law.uc.edu/cgi/viewcontent.cgi?article=1256&context=fac_pubs

¹³ <https://www.themarshallproject.org/2020/11/08/what-biden-s-win-means-for-the-future-of-criminal-justice>

NOW THEREFORE BE IT RESOLVED, that the HNBA supports amending statutes to lower the burden of proof in cases where civil rights may have been violated in order to strengthen police accountability mechanisms;

NOW THEREFORE BE IT RESOLVED, that the HNBA supports expungement of criminal records for lower-level felony offenses after a certain time period for which research demonstrates there is low chance of recidivism;

NOW THEREFORE BE IT RESOLVED, that the HNBA supports expanding efforts to expunge records for juveniles, efforts to prohibit juveniles from being incarcerated in adult facilities, and efforts to end the practice of jailing juveniles for “status offenses” like underage drinking and truancy;

NOW THEREFORE BE IT RESOLVED, that the HNBA supports legislation and policy that minimizes the confinement of immigrant minors;

NOW THEREFORE BE IT RESOLVED, that the HNBA supports the end of solitary confinement, especially for youth and the limitation of solitary confinement for adults;

NOW THEREFORE BE IT RESOLVED, that the HNBA supports efforts for federal bail reform aimed to reduce or eliminate the use of cash bail;

NOW THEREFORE BE IT RESOLVED, that the HNBA supports efforts to expand legal representation of detained immigrants;

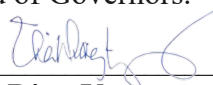
NOW THEREFORE BE IT RESOLVED, that the HNBA supports ending the federal government’s use of for-profit, private prisons and private immigration detention centers;

NOW THEREFORE BE IT FURTHER RESOLVED, that the HNBA authorizes its officers and staff to communicate the content of this resolution to other minority bar association members, members of the U.S. Congress, the press, and to whomever else suited to receive the information in order to affect this Resolution;

BE IT FINALLY RESOLVED, that this resolution shall be the policy of the HNBA until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

I, **Elia Diaz-Yaeger**, National President of the Hispanic National Bar Association, hereby certify that the foregoing resolution was duly enacted by the Executive Committee pursuant to the authority delegated to it by a duly-noticed meeting of the Board of Governors.



Elia Diaz-Yaeger
HNBA National President