

Who's Hispanic?

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Is Sonia Sotomayor the first Hispanic ever nominated to the U.S. Supreme Court? Or does that distinction belong to the late Justice Benjamin Cardozo, who served on the court from 1932-1938 and whose ancestors may or may not have come from Portugal?

Unscrambling Cardozo's family tree is best left to historians and genealogists.¹ Here we take a stab at a more daunting question. Just who is a Hispanic?

If you turn to the U.S. government for answers, you quickly discover that it has two different approaches to this definitional question. Both are products of a 1976 act of Congress and the administrative regulations that flow from it.

One approach defines a Hispanic or Latino as a member of an ethnic group that traces its roots to 20 Spanish-speaking nations from Latin America and Spain itself (but not Portugal or Portuguese-speaking Brazil).

The other approach is much simpler. Who's Hispanic? Anyone who says they are. And nobody who says they aren't.

The U.S. Census Bureau uses this second approach. By its way of counting, there were 46,943,613 Hispanics in the United States as of July 1, 2008, comprising 15.4% of the total national population.

¹ Justice Benjamin Cardozo was a Sephardic Jew whose ancestors immigrated to the American colonies from England. According to one [biographer](#), the family fled from Portugal to Holland in the 17th Century after having been forcibly converted to Christianity. Although not widely disputed, there does not seem to be [definitive proof](#) that the family was from Portugal. Originally settled by Celts, Portugal became an independent kingdom in the 12th Century but was ruled by the King of Spain from 1580 until 1640, when the Portuguese Restoration War reestablished its independence.

But behind the impressive precision of this official Census number lies a long history of changing labels, shifting categories and revised question wording – all of which reflect evolving cultural norms about what it means to be Hispanic.

Here's a quick primer on how the Census Bureau approach works.

Q I immigrated to Phoenix from Mexico. Am I Hispanic?

A. You are if you say so.

Q My parents moved to New York from Puerto Rico. Am I Hispanic?

A. You are if you say so.

Q My grandparents were born in Spain but I grew up in California. Am I Hispanic?

A. You are if you say so.

Q I was born in Maryland and married an immigrant from El Salvador. Am I Hispanic?

A. You are if you say so.

Q My mom is from Chile and my dad is from Iowa. I was born in Des Moines. Am I Hispanic?

A. You are if you say so.

Q I was born in Argentina but grew up in Texas. I don't consider myself Hispanic. Does the Census count me as an Hispanic?

A. Not if you say you aren't.

Q Okay, I get the point. But isn't there something in U.S. law that defines Hispanicity?

A. Yes. In 1976, the U.S. Congress passed the only law in this country's history that mandated the collection and analysis of data for a specific ethnic group: "Americans of Spanish origin or descent." The language of that legislation described this group as "Americans who identify themselves as being of Spanish-speaking background and trace their origin or descent from Mexico, Puerto Rico, Cuba, Central and South America and other Spanish-speaking countries." Standards for collecting data on Hispanics were developed by the Office of Management and Budget (OMB) in 1977 and revised in 1997. Using these standards, schools, public health facilities and other government entities and agencies keep track of how many Hispanics they serve (which was a primary goal of the 1976 law).

However, the Census Bureau does *not* apply this definition in counting Hispanics. Rather, it relies entirely on self-reporting and lets each person identify as Hispanic or not. The 2000 Census form asked the “Hispanic” question this way:

Is this person Spanish/Hispanic/Latino?

Mark (X) the “No” box if **not** Spanish/Hispanic/Latino.

- No**, not Spanish/Hispanic/ Latino
- Yes, Mexican, Mexican Am., Chicano
- Yes, Puerto Rican
- Yes, Cuban
- Yes, other Spanish/Hispanic/Latino – *Print group -->* _____

That question wording will be tweaked slightly in the 2010 Census, but the basic approach will be the same: People will be counted as Spanish/Hispanic/Latino if — and only if — that’s what they say they are. These self-reports are not subject to any independent checks, corroborations or corrections. Theoretically, someone who is Chinese could identify himself as Hispanic and that’s how he would be counted.

Q. But the Census also asks people about their race and their ancestry. How do these responses come into play when determining if someone is Hispanic?

A. They don’t. In the eyes of the Census Bureau, Hispanics can be of any race, any ancestry, any country of origin. The result is that there are varying patterns relating to where people come from and how they choose to identify themselves on the Census. For example, some 99% of all immigrants from Mexico call themselves Hispanic. But just 87% of immigrants from Venezuela adopt this label, as do 86% of immigrants from Argentina, 70% of immigrants from Spain, and only 67% from Panama. As for race, 54% of all Hispanics in the U.S. self-identify as white, 1.5% self-identify as black, 40% do not identify with any race and 3.8% identify as being two or more races.²

Q. What about Brazilians, Portuguese, and Filipinos? Are they Hispanic?

A. They are in the eyes of the Census if they say they are, even though these countries do not fit the official OMB definition of “Hispanic” because they are not Spanish speaking. For the most part, people who trace their ancestry to these countries do not self-identify as Hispanic when they fill out their Census forms. Only about 4% of immigrants from Brazil do so, as do just 1% of immigrants from Portugal or the Philippines.³ These patterns reflect a growing recognition and acceptance of the official definition of Hispanics. In the 1980 Census, about

² From American FactFinder, 2007 American Community Survey, table B03002. The race figures are for “race alone.”

³ Source: Pew Hispanic Center tabulations from American Community Survey, 2007, Integrated Public Use Samples

one in six Brazilian immigrants and one in eight Portuguese and Filipino immigrants identified as Hispanic. Similar shares did so in the 1990 Census, but by 2000, the shares identifying as Hispanic dropped to levels close to those seen today.

Q. How do Hispanics themselves feel about the labels “Hispanic” and “Latino”?

A. The labels are not universally embraced by the community that has been labeled. A 2006 survey by the Pew Hispanic Center found that 48% of Latino adults generally describe themselves by their country of origin first; 26% generally use the terms Latino or Hispanic first; and 24% generally call themselves American on first reference. As for a preference between “Hispanic” and “Latino”, a 2008 Center survey found that 36% of respondents prefer the term “Hispanic,” 21% prefer the term “Latino” and the rest have no preference.

Q. What about Puerto Ricans? Where do they fit in?

A. Puerto Ricans are U.S. citizens by birth – whether they were born in New York (like Judge Sotomayor) or in the Commonwealth of Puerto Rico (like her parents). According to the Census, some 97% of all persons born in Puerto Rico and living in the mainland United States consider themselves Hispanics. Overall, Puerto Ricans are the second largest group of Hispanics in the 50 states and District of Columbia – they make up 9% of the mainland Hispanic population, well behind the Mexican-origin share of 64%, but ahead of the 3.5% share of Cubans. In 2007, the 4.1 million persons of Puerto Rican origin living in the mainland United States exceeded Puerto Rico’s population of 3.9 million

Q. So, bottom line: Is Judge Sotomayor the first Hispanic to be nominated to the U.S. Supreme Court, or not?

A. By the OMB’s definition, yes – Cardozo’s Portuguese roots (assuming he in fact had them) don’t make him Hispanic. But by the Census Bureau approach, not necessarily – for it would depend on how Cardozo would have chosen to identify himself. However, there’s an important historical footnote to consider. The terms “Hispanic” and “Latino” hadn’t yet been coined for official data when Cardozo was alive. In the 1930 Census, the only effort to enumerate Hispanics appeared as part of the race question, which had a category for “Mexican.” That scheme gave way to several other approaches before the current method took hold in 1980. In short, Cardozo would have had no “Hispanic” box to check -- and thus no official way of identifying himself as Hispanic. So, by the ever shifting laws of the land, Sotomayor would indeed appear to be the first Hispanic nominated to the high court. Case closed!

Related Pew Hispanic Center reports:

For detailed demographic information about the Hispanic population, visit [“Statistical Portrait of Hispanics in the United States, 2007”](#) (March 5, 2009)

and [“Latinos Account for Half of U.S. Population Growth Since 2000”](#) (Oct. 23, 2008), which includes interactive maps.

To learn more about the Hispanic vote in 2008, read [“Dissecting the Electorate: Most Diverse in U.S. History”](#) (April 30, 2009) and [“The Hispanic Vote in the 2008 Election”](#) (Nov. 5, 2008).

To learn more about Hispanic Women in the United States, read the fact sheet [“Hispanic Women in the United States, 2007”](#) (May 8, 2008).

For more information about Hispanics’ views on police, courts and prisons, read [“Hispanics and the Criminal Justice System”](#) (April 7, 2009).

To read more about Latino offenders in federal courts, see [“A Rising Share: Hispanics and Federal Crime”](#) (Feb. 18, 2009).