



Overrepresentation of Black People in the Canadian Criminal Justice System: Causes and Effects

Scott Clark, Ph.D.

November 2025

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J4-190/2025E-PDF

ISBN 978-0-660-79544-7

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Executive Summary

The focus of this report is on the underlying causes of overrepresentation of Black people in the Canadian criminal justice system. Overrepresentation of Black people is not a new problem and has received attention from Commissions of Inquiry, governments, non-governmental organizations, communities and individuals for many years. In recognition of these issues, the Department of Justice appointed an external Steering Group of nine experts and leaders from Black communities across Canada. Their first task was to review all existing reports and studies to guide community consultations to inform the development of Canada's Black Justice Strategy. The Steering Group's final report – *A Roadmap for Transformative Change* – with 114 recommendations was published in June, 2024. The Implementation Plan – *Toward Transformative Change: An Implementation Plan for Canada's Black Justice Strategy* – designed to identify the Government of Canada actions and commitments to reduce the overrepresentation of Black people in the criminal justice system was released in 2025.

This report addresses the major challenges facing Black people that can lead to involvement with the criminal justice system. Long standing anti-Black racism and discrimination, whether conscious or unconscious, in government systems and society generally is a fundamental contributor to injustice. The subsequent exposure to the discriminatory pressures built into the criminal justice system itself can further exacerbate the problems facing Black people, especially youth.

In 2021 (the year of the most recent national Census), Black people numbered over 1.5 million individuals, representing 4.3 percent of the total Canadian population. The Black population is currently the third largest racialized group, after South Asians and Chinese, and is settled in all parts of Canada, particularly in urban areas. The age distribution of Canada's Black population is an important factor in terms of overrepresentation. Children and youth (aged 0 to 25 years) made up 41.9 percent of Black populations in 2021. Seventy-two percent of the total Black population was younger than forty-five, compared to 54.9 percent of the total Canadian population.

Black people in Canada are overrepresented in the criminal justice system as accused and convicted, victims and survivors. Overrepresentation occurs at all stages of the system – policing, courts and corrections – in significant numbers relative to the rest of the Canadian population. For example, in 2022-23 Black individuals accounted for 9 percent of the total federal corrections population, while representing 4 percent of the total population.

It is essential to recognize that Black people are not more predisposed to criminal activity than any other group of people, racialized or non-racialized. Experts maintain there are certain broadly defined factors that in some combination over many years have affected the involvement of Black people in the criminal justice system. Colonialism and the practice of slavery have had significant impacts that continue to be felt today. While the face of colonialism has changed over time from the blatant policies of slavery to other forms of discrimination and segregation, the fact is that Black people continue to experience marginalization and disproportionate involvement with the justice system. These realities flow from the normalization and legitimization of advantages for White people that were historically built into government systems and that are currently still in use.

Anti-Black racism, discrimination and segregation have existed in Canada since the 1600s when slavery was prevalent and Black people had no human or legal rights. Experts have demonstrated that

these factors continue to result in negative “social determinants of justice” leading to greater justice system involvement than for other populations. Negative determinants include socio-economic marginalization, poverty, inadequate housing, limited employment and educational opportunities, and inadequate and culturally inappropriate child protection and mental health services. Young people are especially affected by the stresses that accompany anti-Black racism and discrimination. Those stresses have been shown to result in physical and mental health problems for Black youth.

Black communities such as Africville in Halifax and Regent Park in Toronto have experienced both unfair treatment and displacement. Housing for Black people, whether purchased or rented, is typically substandard and difficult to afford.

Employment opportunities are fewer than for Canada’s White population and, when employment is found, salaries are generally lower for Black employees regardless of education level, skill and experience. Similarly, educational opportunities continue to be less available for Black people. In some parts of the country, youth continue to be directed to non-academic programs or, indirectly, encouraged to leave school altogether. In light of the socio-economic conditions in which many Black youth live and the stresses they endure, individual youth can be caught up in the “school to prison pipeline.” Those with a higher level of education are often more likely to experience overqualification, underemployment and earnings gaps not explained by factors other than anti-Black racism and discrimination.

Poverty, which also refers to the social and spiritual well-being of individuals, often results from socio-economic marginalization. As a result of systemic discrimination, Black individuals and families often lack the resources, means, choices and power to enable a living standard above government-defined poverty. According to government data, 12.4 percent of Black people live in poverty, compared to 8.1 percent of the total Canadian population.

The daily experience of anti-Black racism and discrimination often leads to both physical and mental health problems. However, accessible, effective and culturally appropriate health and mental health services are generally lacking for the Black population. Again, while this lack can affect all Black people, it is most serious for youth.

Inequities and overrepresentation are experienced by Black people at all stages of the criminal justice system: policing, courts and corrections. It has been convincingly argued – by Commissions of Inquiry, the courts, and experts in the field – that it is the justice system itself that is criminogenic by virtue of its anti-Black racism and systemic discrimination, resulting in overrepresentation.

Over policing continues to be a serious problem for Black people in Canada. Issues include unwarranted stop and search procedures resulting, for example, in excessive issuance of contact cards (“carding”), excessive use of force, and racial profiling. Racial profiling has been shown to exist in many Canadian police services and is often described as a “self-fulfilling prophecy.” The more it occurs, the more likely the chance of an individual being found guilty of a crime, typically a minor one. Disproportionate surveillance of Black people, especially youth, in their own neighbourhoods is therefore more likely to result in the apprehension and charging of more Black people than White people for the same types of offence. Under policing is a problem, as well. Under policing occurs when the rights of black individuals and communities are not fully recognized by police and when legitimate calls for assistance are not answered.

Criminal court outcomes are also seen to be racially biased, as a number of courts themselves have acknowledged. For example, Black people are held in pre-trial detention more often and for longer than White people accused of similar crimes. Similarly, research indicates that Black accused tend to be subject to different and disproportionately negative outcomes (e.g., incarceration) in comparison with White individuals. However, there have been some recent initiatives that may hold potential. The use of Impact of Race and Culture Assessments (IRCAs), primarily in Nova Scotia and Ontario, has provided a tool whereby sentencing judges can request a report concerning the background of a specific individual. While buy-in by judges and the actual impact and usefulness of IRCAs has yet to be determined through evaluation research, the initiative does represent a judicial acknowledgement of the existence of systemic racism that affects how an individual may come into contact with the criminal justice system.

Corrections is another area wherein Black people experience anti-Black racism, discrimination and segregation. Black offenders are more likely to be sentenced to incarceration than White offenders. Further, Black people are 36 percent more likely to receive a long-term custodial sentence of two years or more (federal penitentiary time). Black adults and youth are also overrepresented in provincial correctional facilities, in both custody and community supervision programs.

Once confined in a penitentiary, Black offenders are overrepresented with regard to use of force by prison officials. They are also disproportionately assigned to maximum security facilities over medium security facilities compared to White offenders. The Office of the Correctional Investigator in its annual report consistently identifies racial bias and negative stereotyping with regard to Black prisoners. Bias is often based on assumptions that Black people are more inclined to exhibit higher risk behaviour, low motivation, and low potential for reintegration into society. Yet Black offenders have lower rates of reoffending on release and lower rates of returning to custody than their White counterparts. The fear of anti-Black racism and the subsequent stress can easily affect life chances and choices and exacerbate mental health problems among Black prisoners. Again, this is especially pronounced for younger offenders.

The effects of anti-Black racism, discrimination and segregation in Canada have been traumatic and intergenerational since the 1600s. The practice of slavery and the subsequent laws, policies and treatment of Black people in historical contexts such as Africville, were based on doctrines which held that Black people were of lesser worth. These attitudes continue to be part of an unconscious bias through socialization, where they exist in many ways unexamined, some subtle and some overt. Anti-Black racism flowing from this unconscious bias held by the majority population continues to create and perpetuate socio-economic marginalization and exclusionary impacts on Black communities, families and individuals, including children. Employment, education, housing, child protection services, and mental health services have all been designed for the experience of the majority and so are inadequate for marginalized people, including Black people. The social determinants of justice compare negatively with other racial groups, especially with White Canadians. Black communities and individuals continue to experience relative poverty and lack of equal opportunity.

Black people are not more naturally inclined to commit crimes than any other racial group, including White people. However, Canadian society, through long-standing discriminatory policies and practices, has engendered an environment wherein the negative determinants of justice increase the risk of

involvement with the criminal justice system. The system, as part of society, has then been empowered to treat Black people unfairly. The cumulative effects of anti-Black racism and discrimination in Canadian society and many of its institutions has led to the overrepresentation of Black people in the criminal justice system. While there have been recent initiatives ideally leading to improvements in the system, much remains to be done. This includes efforts to ensure the availability of race-based and disaggregated data to accurately measure the extent of and address the overrepresentation of Black people at each stage of the criminal justice process.

A 2017 report of the United Nations Working Group representing the Human Rights Council of the United Nations General Assembly highlighted the continuing challenges for Black people in Canada. The Working Group said that the historical entrenchment of anti-Black racism in Canadian institutions and policies, makes it “functionally normalized or rendered invisible, especially to the dominant group.”

1 Introduction

The focus of this report is on the underlying causes of overrepresentation of Black people in the Canadian criminal justice system. It also refers to related reports which identify gaps in efforts to address the problem and potential ways to mitigate the issues. This is a literature review and, as such, is based on materials already in the public domain.¹

Overrepresentation of Black people in the criminal justice system is not a new problem and has received attention from governments, non-governmental organizations, communities and individuals for many years. In 1989 and 1995, respectively, a Royal Commission and a Commission of Inquiry both addressed issues of systemic discrimination and injustice affecting Black people in the criminal justice system,² as have many policy papers, academic articles and books. In recognition of the realities and the problems identified by experts, justice system personnel, victims and accused individuals involved with the system, the Department of Justice Canada appointed an external Steering Group of nine experts and leaders from Black communities across Canada. Their first task was to review all existing reports and studies to guide community consultations to inform the development of Canada's Black Justice Strategy. The Steering Group's final report – *A Roadmap for Transformative Change* – with 114 recommendations was published in June 2024.³ The Implementation Plan – *Toward Transformative Change: an Implementation Plan for Canada's Black Justice Strategy* – designed to identify the Government of Canada actions and commitments to reduce the overrepresentation of Black people in the criminal justice system was released in 2025.⁴

The external Steering Group Report and the Implementation Plan both recognize a fundamental principle laid out in *The Canadian Charter of Rights and Freedoms* in 1982 that continues to underlie policy formation with respect to social and legal rights:

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without

¹ As noted by the Department of Justice, “National disaggregated data on the racialized identity of those who come in contact with the criminal justice system remain fairly limited and underreported.” This is an issue requiring attention in order to provide complete and accurate information for purposes of policy and program development. See Department of Justice, December, 2022. *Just Facts: Overrepresentation of Black people in the Canadian criminal justice system*. https://www.justice.gc.ca/eng/rp-pr/jr/obpccjs-spnjsjc/pdf/RSD_JF2022_Black_Overrepresentation_in_CJS_EN.pdf

² The Royal Commission on the Donald Marshall, Jr., Prosecution (Nova Scotia, 1989). <https://archives.novascotia.ca/pdf/marshall/4-1-BlacksStudy.pdf>; The Commission on Systemic Racism in the Ontario Criminal Justice System (1995). <https://dn720207.ca.archive.org/0/items/39192409060217/39192409060217.pdf>

³ Akwasi Owusu-Bempah and Zilla Jones, 2024. *A Roadmap for Transformative Change: Canada's Black Justice Strategy*, Department of Justice Canada. https://www.justice.gc.ca/eng/cj-jp/cbjs-scnj/transformative-transformateur/pdf/CS-24-110-CBJS-GV-DA_06-25-24-EN.pdf

⁴ Department of Justice Canada, 2025. *Toward Transformative Change: An Implementation Plan for Canada's Black Justice Strategy*. https://www.justice.gc.ca/eng/cj-jp/cbjs-scnj/ttc-ect/pdf/CS-24-175-Implementation_Plan-EN.pdf

discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.⁵

Yet equality without racial discrimination is still not a given in Canada. A Working Group representing the United Nations Commission on Human Rights and the Human Rights Council of the United Nations General Assembly visited Canada in 2017 and produced a report entitled *Report of the Working Group of Experts on People of African Descent on its Mission to Canada*. The Working Group investigated social and legal institutions and Canadian society generally. While it identified many positive aspects of Canadian society, two broad conclusions are especially noteworthy. The first lays the foundation for the conditions Black people face:

[T]he Working Group is deeply concerned by the structural racism that lies at the core of many Canadian institutions and the systemic anti-Black racism that continues to have a negative impact on the human rights situation of African Canadians.⁶

With respect to the criminal justice system:

The Working Group is particularly concerned about the overrepresentation of African Canadians in the criminal justice system, which may be attributed to racial bias at all levels of the system, from racial profiling to the exercise of prosecutorial discretion, the imposition of pretrial incarceration and disparities in sentencing.⁷

Thirty years ago, an Ontario Commission of Inquiry concluded the following:

Systemic racism, the social process that produces racial inequality in how people are treated, exists in the Ontario criminal justice system. Commission findings leave no doubt that racialized people experience the system as unfair and that at key points in the administration of justice, the exercise of discretion has a harsher impact on black than white people.⁸

More recently, the external Steering Group observed the following:

The harms of the past continue to influence the operation of the modern Canadian justice system in which Black people are overrepresented and disproportionately experience negative outcomes.⁹

⁵ *Canadian Charter of Rights and Freedoms*, 1982. Section 15. <https://www.justice.gc.ca/eng/csj-sjc/rfc-dlc/ccrf-ccd/check/art15.html>

⁶ Human Rights Council, United Nations General Assembly, 2017. *Report of the Working Group of Experts on People of African Descent on its Mission to Canada*. <https://ansa.novascotia.ca/sites/default/files/files/report-of-the-working-group-of-experts-on-people-of-african-descent-on-its-mission-to-canada.pdf>

⁷ *Ibid.*

⁸ The Commission on Systemic Racism in the Ontario Criminal Justice System (1995), page 409. <https://dn720207.ca.archive.org/0/items/39192409060217/39192409060217.pdf>

⁹ Akwasi Owusu-Bempah and Zilla Jones, 2024. *op. cit.*, page 11.

This report addresses the major challenges facing Black people that can lead to increased risk of involvement with the criminal justice system. Long standing anti-Black racism and discrimination throughout Canadian society is a fundamental cause of socio-economic marginalization, poverty, inadequate housing, relatively few employment and educational opportunities, and a lack of effective mental health services. These factors can increase risks of criminal justice system involvement. The subsequent exposure to the discriminatory outcomes of the criminal justice system can further exacerbate the problems facing Black people, especially youth.

2 Demographics and Diversity of Black Populations

Understanding the demographic make-up and diversity of Black populations in Canada is important when considering engagement with the criminal justice system. According to Statistics Canada, Black people

... represent a growing proportion of the racialized populations in Canada and their sociodemographic profiles have evolved over the last 25 years. The diversity of these populations has been influenced by the pre-Confederation transatlantic settlement of Black peoples in Canada [slavery] and migration flows to Canada from the Caribbean and Africa, starting in the 1960s. Black populations in Canada differ in terms of their histories, ethnocultural origins, places of birth, mother tongues, and religious affiliations.¹⁰

In 2021 (the year of the most recent national Census), Black people numbered over 1.5 million individuals, representing 4.3 percent of the total Canadian population. The Black population is currently the third largest racialized group, after South Asians and Chinese. Black populations have a long historical presence in Canada. Forty-one percent of Black people were born in Canada and represented the largest share (35.8 percent) of all racialized individuals in the third generation or more (born in Canada with all parents born in Canada).¹¹ According to recent population projections, the Black populations could reach over 3 million people in 2041, making them the second largest racialized group in Canada after the South Asian populations.¹²

Black people reported the highest number of mother tongues (approximately 250) among all racialized groups in Canada in 2021, which demonstrates the significant linguistic diversity of the Black population. Over 25 percent of Black respondents to the 2021 Census reported more than one ethnic or cultural origin, most frequently African, Jamaican or Haitian. Black people also expressed the highest rate of religious affiliation (primarily with Christianity) compared with other racialized groups and non-racialized populations.¹³

¹⁰ Statistics Canada, 2024. *Study: The Sociodemographic Diversity of the Black Populations in Canada*. Statistics Canada catalogue no. 11-001-X. <https://www150.statcan.gc.ca/n1/daily-quotidien/241025/dq241025b-eng.pdf>

¹¹ Statistics Canada, 2025. *Black History Month...By the Numbers*. <https://www.statcan.gc.ca/en/daily/by-the-numbers/black-history-month>

¹² Statistics Canada, 2024. *Op. cit.*

¹³ *Ibid.*

The areas of the country in which Black people settle have been changing, although according to Statistics Canada, “In 2021, 97.8% of Black people in Canada resided in urban areas. The three most populous census metropolitan areas with the largest Black populations were Toronto, Montreal and Ottawa-Gatineau.”¹⁴ However, Black communities are becoming more geographically dispersed in Canada with Black populations decreasing in Ontario and Quebec and increasing in the Prairie provinces, particularly in Alberta.¹⁵

It is also important to understand the age distribution of Canada’s Black population. Children and youth (aged 0 to 25 years) made up 41.9 percent of Black populations in 2021. Seventy-two percent of the total Black population was younger than forty-five, compared to 54.9 percent of the total Canadian population.¹⁶ Again, this is significant, as discussed later in the report.

3 Overrepresentation: Realities and Causes

Black people in Canada are overrepresented in the criminal justice system as accused and convicted, as well as victims and survivors of crime. Overrepresentation occurs at all stages of the system – policing, courts and corrections – in significant numbers relative to the rest of the Canadian population. For example, in 2022-23 Black individuals accounted for 9 percent of the total federal corrections population,¹⁷ while representing 4 percent of the total Canadian population.¹⁸

The following example focuses on just one aspect of criminal behaviour and victimization,¹⁹ although a very serious one. It demonstrates the overrepresentation of Black individuals as both accused and victims. Black people are overrepresented in terms of being accused of homicide and being victims of homicide. In 2021, 20 percent of all individuals accused of homicide were identified by police as Black. The rate of Black people accused of homicide was almost six times higher than the rate for non-racialized people (8.17 accused per 100,000 compared with 1.43 per 100,000). Homicide victim rates were also comparatively higher according to 2021 data. The rate of homicide victims identified as Black was four times higher than the rate for non-racialized people (7.72 victims per 100,000 compared with 1.81 per 100,000).²⁰ The story behind these numbers is complex and is laid out below.

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ *Ibid.*

¹⁷ A conviction on an indictable offence can lead to at least two years in a federal correctional institution, while conviction on a summary offence can result in up to two years less a day in a provincial or territorial jail. Incarceration can be combined with other sentencing conditions such as a fine.

¹⁸ Charbel Saghbini & Lysiane Paquin-Marseille, 2023. Black People in Criminal Courts in Canada: An Exploration Using the Relative Rate Index. Research and Statistics Division, Department of Justice Canada, pages 5-6. https://www.justice.gc.ca/eng/rp-pr/jr/rrbb-bbrr/pdf/RSD2023_Report-Black-EN.pdf

¹⁹ There is currently a lack of available data on victimization; however, the Statistics Canada *Disaggregated Data Action Plan*, currently in progress, may help address this gap. <https://www.statcan.gc.ca/en/trust/modernization/disaggregated-data>

²⁰ Department of Justice, 2022. *Just Facts: Overrepresentation of Black people in the Canadian criminal justice system*. https://www.justice.gc.ca/eng/rp-pr/jr/obpccjs-spnsjpc/pdf/RSD_JF2022_Black_Overrepresentation_in_CJS_EN.pdf

Why are Black people so vastly overrepresented in the justice system? First, it is essential to recognize that Black people are not more predisposed to criminal activity than any other group of people, racialized or non-racialized. Yet, as Maynard points out, “The Canadian population continues to associate race – and Blackness in particular – with criminality.”²¹ This association is a legacy of anti-Black racism and discrimination from even before the time of the Trans-Atlantic slave trade, as described in the next section.

Experts maintain there are certain broadly defined factors that in combination over many years have affected the involvement of Black people in the criminal justice system. As Owusu-Bempah and Jones (2023) explain,

The social factors that contribute to Black experiences with the criminal justice system can be described as the “determinants of justice.” The social determinants of justice include income, employment, stable housing, education, and health. Where data are available, research demonstrates that Black people in Canada fare poorly across these dimensions, with lower-than-average incomes, higher rates of unemployment, decreased access to secure and stable housing, poorer educational outcomes in Canadian schools, and poorer health and mental health outcomes.²²

The authors go on to say the following:

Anti-Black racism and systemic discrimination are often cited as a driver of these negative outcomes. Challenges related to immigration and settlement may also exacerbate the problems faced by Black people across the areas identified as social determinants of justice. Importantly, inequities in the criminal justice system, including the over-criminalization and over-incarceration of Black people, can further entrench the broader social inequities that make up the social determinants of justice.²³

The following sections of this report refer to the social determinants of justice noted above. However, the section immediately following explains the beginnings of overt anti-Black racism and discrimination in Canada.

3.1 Colonialism and Slavery: Anti-Black Racism

We cannot understand the present until we know the past. Unfortunately, we are still not adequately understanding the past or the present for Black people and their communities and we are often repeating the mistakes of history. Colonialism and the practice of slavery have had significant impacts that continue to be felt today. While the face of colonialism has changed over time from the blatant policies of slavery to other forms of discrimination and segregation, the fact that our government

²¹ Robyn Maynard, 2017. *Policing Black Lives: State Violence in Canada from Slavery to the Present*, page 86.

²² Akwasi Owusu-Bempah and Zilla Jones, 2023. *Op. cit.*, page 24.

²³ *Ibid.*

systems were created at a time when these practices existed, and so encompass the same attitudes, means that Black people continue to experience marginalization and justice system overrepresentation that must be addressed. According to three scholars providing written evidence for the Ontario Court of Appeal in the case of a young Black man,

The present circumstances of Black Canadians have deep historical roots. The institutions of slavery and of legalized segregation in Canada formed the basis for Black Canadians' initial relationship with the state and its people. While slavery and segregation served to underpin early economic and political structures, the ideas and assumptions on which they were based shaped the nature of social relations.²⁴

The practice of slavery was common in North America from the time of its initial settlement in the 17th and 18th centuries. Enslaved people, who were African and Indigenous, were legally considered chattel, owned and every aspect of their lives controlled by their owners with no human or legal rights. While most enslaved Black people at the time came originally from Africa, many arrived via Europe with their settler owners. Others were bought by settlers from slave traders from Britain and other European countries. The latter half of the 18th century saw slavery of Black people beginning to decline in British North America with freedom offered to some under certain conditions, such as fighting for the British during the American War of Independence. However, similar change did not occur in the United States. Many enslaved people managed to make their way to Canada, most famously 30,000 Black people via the Underground Railroad between 1800 and 1865. The abolitionist movement gained strength in Britain and British North America and in 1833 slavery was abolished in what would become Canada with the *Act on the Abolition of Slavery in the British Empire*. Even then, however, former slaves in Canada were forced to work for their former masters for free for several more years as restitution.

Yet while legal change occurred, the overall mindset of the White majority did not change significantly. Black people continued to be viewed as an inferior race, the same belief that had been used to justify and maintain Black slavery for centuries. While slavery became illegal, Black people were still commonly seen through a racist lens, deemed inferior and now dangerous in their limited freedom. As such, Black people remained subject to discriminatory and segregationist attitudes and policies at official and unofficial levels.²⁵ In 1910, for example, as an early case of systemic discrimination, the *Immigration Act* targeted Black immigrants who were arbitrarily declared “unsuited to the climate or requirements of Canada,” thereby blocking entry to most Black immigrants, many of whom were coming from the United States.

An example of discrimination in the form of segregation occurred in 1946 when Viola Desmond, a Halifax businesswoman, was arrested for refusing to move from her seat in the “whites-only” section of

²⁴ Akwasi Owusu-Bempah, Camisha Sibblis, Carl James, 2018. *Expert Report on Crime, Criminal Justice and the Experience of Black Canadians in Toronto, Ontario*. Report prepared for the Ontario Superior Court of Justice in *R. v. Morris*, 2018 ONSC 5186. <https://handbook.law.utoronto.ca/sites/default/files/users/alzner/R%20v%20Morris.AppendixA.pdf>

²⁵ Indigenous people experienced similar attitudes and policies through colonial measures and statutes such as the *Indian Act* of 1876 and its many amendments. The Act is still in place and is still based on colonial principles of restrictive control, according to many (e.g., Coates, 2008; Palmater, 2011; Clark, 2019).

a movie theatre. Only in 2010 did the Government of Nova Scotia issue an apology and a posthumous pardon for Viola Desmond.²⁶

3.2 Housing and Community

At the community level, social and economic marginalization of Black people has created disproportionate negative outcomes in a range of areas. Anti-Black racism historically resulted in the congregation of Black people in low-income neighbourhoods, which then provided a convenient way for government, business and the White community to ignore their forced poverty and to exploit the community for cheap labour by denying educational and skilled work opportunities. Even now, once communities become well-established, the land is often deemed valuable and suitable for redevelopment. Communities are then dismantled, and residents are displaced with no choice but to leave.

Africville is an example.²⁷ In the 18th century, hundreds of Black slaves lived in Nova Scotia, with more arriving during the American Revolution and serving wealthy British Loyalists. Subsequently, the Underground Railroad led many Black people from the United States to Nova Scotia. Thousands of enslaved Black people, and to a lesser extent freed slaves, populated Nova Scotia in the 19th century.²⁸ As they were denied housing in other areas, many were forced to settle in a part of Halifax that came to be known as Africville. Residents of Africville were largely restricted to their neighbourhood and lived in poverty. They suffered anti-Black racism and discrimination in terms of education, employment, and mismanagement by city authorities. The residents of Africville paid taxes to the city but did not receive services such as running water, electricity, paved roads, streetlamps, garbage removal, or police protection.²⁹ Black people continued to be seen as inferior and undeserving of a place in mainstream society except in their roles as slaves and servants, freed or not. Such attitudes continued well into the 20th century. In 1962, Africville was demolished by the City of Halifax to accommodate urban renewal. The plan was to make way for reconstruction in this area of the city that would then cater to relatively wealthy businesses and housing.

Black residents of Africville dispersed and settled where they could, hoping to make a living. This kind of cycle occurred not only in Halifax, but in other areas of Canada where Black people settled in the 18th and 19th centuries: southern Ontario, Alberta, and lower mainland British Columbia. The historical record is consistent – first neglect, then displacement.

The cycle of neglect and displacement continues in Canadian cities. Two contemporary examples are Regent Park in downtown Toronto and Hogan's Alley in Vancouver.

²⁶ Viola Desmond's portrait now appears on the Canadian ten-dollar bill.

²⁷ The Royal Commission on the Donald Marshall, Jr., Prosecution (Nova Scotia, 1989. Vol.4, *Discrimination Against Blacks in Nova Scotia: The Criminal Justice System*, pages 8-10. <https://archives.novascotia.ca/pdf/marshall/4-1-BlacksStudy.pdf>

²⁸ *Ibid.*

²⁹ NiCHE, 2021. *Africville: A Study of Environmental Racism*. <https://niche-canada.org/2021/02/17/africville-a-story-of-environmental-racism/>

The Regent Park neighbourhood has been home to newcomers and culturally diverse populations since the late 1800s. While residents have been economically marginalized and dependent on government subsidization for their housing, a strong sense of community has existed. Unfortunately, crime rates, particularly gang-related violent crime, became higher than in the rest of the city,³⁰ which made Regent Park a concern for Toronto.

In 2006 the city initiated a redevelopment project that was to be unique in urban planning internationally. Regent Park was redesigned as a mix of public housing and upscale condos and townhouses with opportunities for the entire community to interact and make community decisions together. The redevelopment project took several years to reach a point of viability, and, in the meantime, lower-income families had no choice but to move. They were told they could return to new accommodations when renewal was complete. In fact, the wait was long enough that many families chose to stay away from their old Regent Park neighbourhood because they had settled in low-income areas elsewhere in Toronto. In addition, only twenty-seven percent of the re-built housing stock was subsidized, significantly less than had been intended. This resulted in many fewer low-income families returning than originally planned.³¹ Those who did return felt stigmatized as Black people living in subsidized housing next door to affluent (mostly White) people in relatively expensive housing. These changes disrupted the previous cultural make-up of Regent Park, as well as the close inter-cultural relationships that had developed over many years.³²

Hogan's Alley, a largely Black historic neighbourhood in Vancouver, is another example of a community whose homes were razed, in this case to make way for the Georgia Viaduct (part of a highway system) in 1970.

With regard to current housing conditions, the external Steering Group for Canada's Black Justice Strategy identified the ongoing lack of access to secure and stable housing as an important social determinant of justice. They explain that anti-Black racism and systemic discrimination can be seen as drivers of problems such as housing instability and, ultimately, to involvement with the criminal justice system.³³ Canada's *National Housing Strategy Act* (2019) declared that "the right to adequate housing is a fundamental human right affirmed in international law." While a housing shortage is currently a

³⁰ Toronto Police Service, 2025. *Neighbourhood Open Crime Rates*. <https://data.torontopolice.on.ca/datasets/TorontoPS::neighbourhood-crime-rates-open-data/about>

³¹ Shauna Brail and Nishi Kumar, 2017. *Community leadership and engagement after the mix: The transformation of Toronto's Regent Park*. *Urban Studies*, Vol. 54, No. 16. https://www.jstor.org/stable/26428413?read-now=1&seq=14#page_scan_tab_contents

³² Martine August, 2008. *Social Mix and Canadian Public Housing Redevelopment: Experiences in Toronto*. *Canadian Journal of Urban Research*, Vol. 17, No. 1.

³³ Akwasi Owusu-Bempah and Zilla Jones, 2023. *op. cit.*, page 24.

serious problem in Canada generally, certain populations, including Black populations, are at a greater disadvantage than the overall population.³⁴

The *Canadian Housing Survey, 2018* provides data on Black housing compared to the total population, clearly demonstrating that Black people are at a disadvantage in accessing secure and stable housing.³⁵ According to the survey, Black people were more likely to live in rented dwellings (52 percent) than the total population (27 percent) and were also more likely to live in subsidized rental housing (14 percent, compared with 3 percent for the total population). Black people were also much less likely to live in an owner-occupied dwelling without a mortgage, and less likely to live in a dwelling suitable for the size and composition of the household, according to the *National Occupancy Standard*.³⁶ Further, with respect to “core housing need,” the survey found the following:

A household is said to be in core housing need if their dwelling falls below at least one of the affordability, suitability, or condition of dwelling standards, and would have to spend 30 percent or more of their total before-tax income to pay the median rent of alternative local housing that is acceptable (meets all three housing standards). According to the 2018 CHS, 15 percent of Black people were living in households in core housing need. This is higher than the 9 percent of the total population in core housing need.

Negative impacts on health and mental health and the intergenerational stress arising from neighbourhood displacement, housing insecurity and poverty are common among Black families.³⁷ For Black people facing these conditions, any involvement in the criminal justice system can reinforce stereotypes, acting as justification for continued discrimination and segregation by the non-racialized public and the justice system. Again, this perception continues to be based on long-standing assumptions that Black people are more prone to criminal activity than other racial groups, especially White people. This is particularly difficult for Black youth as it is young people who most commonly face the challenges of intergenerational stress and mental health problems, as discussed below.

3.3 Socio-Economic Marginalization

The marginalization of Black people in Canada has a long history rooted in anti-Black racism and systemic discrimination that has resulted in social and economic restrictions. Barriers to meaningful employment and education are among the factors that have impeded Black people’s engagement in mainstream Canadian society and economic well-being.

³⁴ Nemoy Lewis & Abigail Moriah, 2024. Canada Mortgage and Housing Corporation. *Buying While Black: Barriers to Black Homeownership in the Greater Toronto Hamilton Area*. https://assets.cmhc-schl.gc.ca/sf/project/archive/research_6/buying-while-black-barriers-to-black-home-ownership-in-the-greater-toronto-hamilton-area.pdf

³⁵ Statistics Canada, 2021. *Housing experiences in Canada: Black people in 2018*. <https://www150.statcan.gc.ca/n1/pub/46-28-0001/2021001/article/00006-eng.htm>

³⁶ Canada Mortgage and Housing Corporation, 2022. *National Occupancy Standard*. <https://www.cmhc-schl.gc.ca/professionals/industry-innovation-and-leadership/industry-expertise/affordable-housing/provincial-territorial-agreements/investment-in-affordable-housing/national-occupancy-standard>

³⁷ Akwasi Owusu-Bempah, Camisha Sibblis, Carl James, 2018. *op. cit.*

Analysis of data from the 2021 Census shows “the socioeconomic conditions of this population, including rates of employment and earnings, are generally lower than the non-Indigenous, non-racialized population. This is true even after accounting for differences in age and education.”³⁸

Unemployment rates are higher for Black men (25-64 years old), Black women (25-64 years old), and Black youth (15-24 years) than rates for the same categories in the overall population. In 2023, Black men experienced an unemployment rate of 9.2 percent, compared to 5.0 percent of men in the overall population. The unemployment rate for Black women was 7.8 percent compared to 4.7 percent for women in the overall population. For Black youth unemployment was at a rate of 17.5 percent compared to 11.3 percent for youth in the overall population.^{39 40} A study based on the 2016 Census concluded that of thirteen ethnic categories measured for unemployment, Black people had the second highest rate, behind only the Arab ethnic group.⁴¹

Even for those with higher levels of education, these gaps persist. In 2020, the median income of Black individuals with a bachelor’s degree or higher was \$50,000, compared to \$70,000 for the non-racialized population. Canadian-born Black people generally work in lower-level occupations relative to their education and are less likely to have full-time, full-year work, compared to the non-racialized third-generation population (all parents born in Canada).⁴²

Analysis of 2021 Census data indicates the following:

Black populations faced additional wage gaps that could not be attributed to differences in occupational group, weeks worked, part-time or full-time work, education, language, region of Canada or family structure. These wage gaps could relate to unobserved factors, which may include differences in pay within the same occupation, job tenure, specific occupation and access to promotions.

³⁸ Statistics Canada, 2023. *Study: Education and earnings of Canadian-born Black populations*. Catalogue no. 11-001-X. <https://www150.statcan.gc.ca/n1/daily-quotidien/230822/dq230822a-eng.pdf>

³⁹ Statistics Canada, 2024. *Labour Force Survey, December 2023*. <https://www150.statcan.gc.ca/n1/daily-quotidien/240105/dq240105a-eng.htm>

⁴⁰ A positive sign is the increase in the proportion of Black business owners over time. This increase includes both incorporated businesses and unincorporated (self-employed workers) businesses, although the latter type is more common. See Bassirou Gueye, 2023. *Black Business Owners in Canada*. Statistics Canada, Catalogue no. 11F0019M – No. 467. https://www150.statcan.gc.ca/n1/en/pub/11f0019m/11f0019m2023001-eng.pdf?st=OMf_3E2t

⁴¹ Ng, E. & Gagnon, S, 2020. *Employment Gaps and Underemployment for Racialized Groups and Immigrants in Canada: Current Findings and Future Directions*. <https://ppforum.ca/wp-content/uploads/2020/01/EmploymentGaps-Immigrants-PPF-JAN2020-EN-Feb7.pdf>

⁴² Canadian Association for Supported Employment, 2025. *Black History Month by the Numbers – Employment and Disability*. [https://www.supportedemployment.ca/black-history-month-by-the-numbers/#:~:text=From%20October%20to%20December%202023,from%20December%202022%20\(80.6%25\)](https://www.supportedemployment.ca/black-history-month-by-the-numbers/#:~:text=From%20October%20to%20December%202023,from%20December%202022%20(80.6%25))

For Black men, these unexplained differences were the largest factor in earnings differences compared with the non-racialized third-generation-or-more population. The gaps ranged from \$6,500 among African-origin Black men to more than \$8,000 among Caribbean- and Canadian-origin Black men. Among Black women, they ranged from \$2,900 among African-origin Black women to \$4,100 among Caribbean-origin Black women.⁴³

It is possible that the differences between Black and non-racialized employment rates and wages may be due at least partly to a built-in bias among employers. The John Howard Society of Ontario notes the following:

In a 2017 study conducted in Toronto of individuals applying to the same jobs with the same qualifications, white applicants with a criminal record had a call back rate of 18.8% which was more than the call back rate for Black applicants without a criminal record (10.9%) and significantly larger than the call back rate for Black applicants with a criminal record (1.6%).⁴⁴

If this bias is consistent, it is another example of the long-standing anti-Black racism inherent in Canadian society.

Discrimination in education is another significant factor in creating socio-economic marginalization. Segregation in educational institutions has existed for many years. Ontario, Quebec and Nova Scotia had formally segregated public schools and only with the passing of the *Canadian Human Rights Act* in 1977 did institutional change begin. However, change was slow in some areas. Ontario's last segregated school, in Colchester, closed in 1965⁴⁵ and the last segregated school in Canada, near Halifax, finally closed in 1983.⁴⁶ Yet educational segregation was common, although less formalized in other Canadian jurisdictions. According to a report in *The Aeolian*,

Ontario and Nova Scotia were the only provinces to legislate racially segregated schools. However, in other provinces including Alberta, Saskatchewan, New Brunswick and Prince Edward Island, it was acceptable practice for white [sic] residents to deny Black families access to local public schools. Intimidation was used to discourage Black parents from sending their children to local public schools, or to force Black families to establish their own schools.⁴⁷

⁴³ Statistics Canada, 2023a. *Study: Education and earnings of Canadian-born Black populations*. Catalogue no. 11-001-X. <https://www150.statcan.gc.ca/n1/daily-quotidien/230822/dq230822a-eng.pdf>

⁴⁴ John Howard Society of Ontario, n.d. *Anti-Black Racism in the Criminal Justice System*. <https://johnhoward.on.ca/wp-content/uploads/2023/05/Spotlight-on-anti-black-racism-in-the-CJS-Feb9.pdf>

⁴⁵ The Aeolian, 2020. *Racial Segregation of Black People in Canada – Education*.

⁴⁶ African Nova Scotian Affairs – Government of Nova Scotia, 2025. *Canada's History of Segregation*. <https://ansa.novascotia.ca/content/african-heritage-month-narratives-week-three>

⁴⁷ The Aeolian, 2020. *op. cit.*

The Aeolian also notes that post-secondary institutions enforced segregation into the twentieth century until as recently as the 1960s. McGill University, Queen's University and the University of Toronto would not admit Black applicants to their medical schools, even though the applicants were academically qualified. One reason given was that patients would not want a Black doctor administering to them - a clear indication of anti-Black racism and discrimination.⁴⁸

Discrimination and segregation have been and continue to be practiced with regard to housing, employment and education, as outlined above. Further examples of anti-Black racism and discrimination are discussed below.

3.4 Poverty

Socio-economic marginalization leads to poverty at a certain point. According to the Government of Canada, poverty is “the condition of a person who is deprived of the resources, means, choices and power necessary to acquire and maintain a basic level of living standards and to facilitate integration and participation in society.”⁴⁹ In 2022, 48 percent of Black people aged 15 years and over said they experienced difficulty in meeting household financial needs, again second only to the Arab population among all racialized groups.⁵⁰

The Canadian Poverty Institute has outlined the scale of poverty for Black people in Canada:

Across Canada, Black Canadians are disproportionately represented among the population that lives with low-income. According to the 2021 Census, 12.4% of Black Canadians were living in poor households, compared to just 8.1% of the total population.⁵¹

It is important to understand that poverty is not simply an economic condition. Again, according to the Canadian Poverty Institute,

...a consideration of poverty among Black Canadians must consider more than just income. Lack of power and access to opportunities are just as much an aspect of poverty as lack of income. Persistent racism, discrimination and stereotypes that result in elevated rates of income poverty for some, create conditions of social and spiritual poverty for a much broader swath of the racialized population.⁵²

⁴⁸ African Nova Scotian Affairs. *op. cit.*

⁴⁹ Employment and Social Development Canada, 2018. *Opportunity for All: Canada's First Poverty Reduction Strategy*. <https://www.canada.ca/content/dam/canada/employment-social-development/programs/poverty-reduction/reports/poverty-reduction-strategy-report-EN.pdf>

⁵⁰ Statistics Canada, 2025. *Black History Month...By the numbers*. <https://www.statcan.gc.ca/en/daily/by-the-numbers/black-history-month>

⁵¹ Canadian Poverty Institute, n.d., *Poverty and Anti-Black Racism: What poverty rates tell us (and don't tell us) about Blackness in Canada*. <https://www.povertyinstitute.ca/bhm2023>

⁵² *Ibid.*

Socio-economic marginalization is common in Canada among both racialized and non-racialized populations. However, Canada's Black population endures the conditions linked to poverty to a greater degree than the White population and other racialized groups. This reality is, in large part, a holdover from earlier days of anti-Black racism, discrimination and segregation.

3.5 Challenges for Black Youth

In a consultation process held in six Canadian cities in 2020-2021, participants identified several factors that contribute to the likelihood of Black youth coming into contact with the criminal justice system. "These included, among others, over-policing, poverty, exclusion from schooling, barriers to finding employment, and obstacles faced by newcomers attempting to integrate into Canadian society."⁵³ Additional factors are shown to have negative impacts on Black youth: overrepresentation of Black children in child welfare cases, relatively high rates of mental illness among Black youth, and the pressure on young Black men to present a "tough" persona, which can also increase their chances of coming into contact with police.⁵⁴

Education is closely linked to employment and wage earning and continues to be a challenge for many Black youth. While anti-Black interactions with teachers and school officials are not as overt as they were during the period of segregation, discrimination still occurs at the systemic level. That discrimination continues to be rooted in anti-Black bias. It is common for Black students to be directed away from academic to vocational programs, regardless of a student's potential. This kind of streaming assumes that Black youth are incapable academically and are generally undisciplined. Owusu-Bempah and Jeffers argue that negative labelling and discriminatory treatment lead to exclusion. They say, "This exclusion can occur when youth are treated as unwanted outsiders in school."⁵⁵ This often in turn leads to disinterest in school, skipping classes or leaving school altogether. With a graduation certificate of lesser value, or with none at all, finding employment is significantly more difficult for many Black youth compared to White youth. This occurs even when credentials are at the same level. In the end, and in desperation, this path can force Black youth toward illegal income sources. The result is often the "school-to-prison pipeline."⁵⁶

Black children, often from a very young age, are involved at significantly higher levels with Children's Aid Societies than White children. Again, this is in part due to the socio-economic marginalization of individual families and sometimes to the break-up of families caused by the same stresses of

⁵³ Akwasi Owusu-Bempah & Storm Jeffers. 2021. *Black Youth and the Criminal Justice System: Summary Report of an Engagement Process in Canada*. Department of Justice Canada. Page 7. <https://www.justice.gc.ca/eng/rp-pr/jr/bycjs-yncjs/pdf/RSD2021-BlackYouth-CJS-Engagement-EN.pdf>

⁵⁴ Akwasi Owusu-Bempah, Camisha Sibblis, Carl James, 2018. *op. cit.*

⁵⁵ Akwasi Owusu-Bempah & Storm Jeffers, 2021. *Black Youth and the Criminal Justice System: Summary Report of an Engagement Process in Canada*. Department of Justice Canada. <https://www.justice.gc.ca/eng/rp-pr/jr/bycjs-yncjs/pdf/RSD2021-BlackYouth-CJS-Engagement-EN.pdf>

⁵⁶ Owusu-Bempah & Storm Jeffers, 2021. *op. cit.*

marginalization, as well as to systemic racial bias.^{57 58} The removal of children from their homes is often done unnecessarily without recognition of situational or cultural differences. Black children in difficult family circumstances often receive physical and emotional support from other family members, friends or neighbours.⁵⁹ However, child removal decisions can be influenced by racial biases held by officials and the system as a whole and culture-oriented supports are not considered. According to Owusu-Bempah, Sibblis and James, “disproportionate levels of contact with the system, combined with the absence of culturally appropriate practices, increases the criminogenic effect of care for African Canadians.”⁶⁰ In other words, exposure to a child welfare system can contribute to the likelihood of a Black child – sooner or later – becoming involved with the criminal justice system.⁶¹

3.6 Mental Health

Related to all the above manifestations of socio-economic marginalization is the disproportionate extent of mental health problems among Black adults and youth. The Centre for Addiction and Mental Health (CAMH) found that “95.1% of Black people in Canada are subject to at least one traumatic event during their lifetime.”⁶²

A Statistics Canada survey in 2019 found that “nearly half (46%) of Black people aged 15 years and older reported experiencing at least one form of discrimination in the past 5 years, compared to 16% of the non-Indigenous, non-visible minority population.”⁶³ Further, the same study showed “that a considerably higher proportion of Black people experienced discrimination in 2019 than in 2014 (46% versus 28%).”⁶⁴

CAMH (quoting Cenat et al, 2021) goes on to say,

Many studies over the years have reports that everyday racial discrimination is linked with mental health problems.... For instance, those experiencing a high level of racial discrimination

⁵⁷ Akwasi Owusu-Bempah, Camisha Sibblis, Carl James, 2018. *op. cit.*

⁵⁸ Nicole Bonnie & Keishia Facey, 2022. *Understanding the Over-Representation of Black Children in Ontario Child Welfare Services*. <https://socialwork.utoronto.ca/news/new-report-reveals-the-reality-of-anti-black-racism-in-ontario-child-welfare-service-delivery/>

⁵⁹ Owusu-Bempah, Sibblis & James, 2018. *op. cit.*

⁶⁰ *Ibid.*

⁶¹ Indigenous families in Canada have long experienced the illegitimate and painful removal of their children due to racism and cultural misunderstanding. The “sixties scoop” affecting Indigenous families is not an isolated example.

⁶² Centre for Addiction and Mental Health, 2021. *Mental Health Disparities in Black Populations*. <https://www.camh.ca/en/professionals/professionals--projects/ca-cbt-black-populations/why-ca-cbt/mental-health-disparities-in-black-populations>

⁶³ Statistics Canada, 2022. *Experiences of discrimination among the Black and Indigenous populations in Canada, 2019*. <https://www150.statcan.gc.ca/n1/pub/85-002-x/2022001/article/00002-eng.htm>

⁶⁴ *Ibid.*

were more than 36 times more likely to have severe depressive symptoms when compared to those reporting a low level of discrimination.⁶⁵

Further, CAMH points out that, “According to a 2020 Statistics Canada survey, 32% of individuals from Black communities compared to 24% White counterparts reported to experience symptoms of anxiety (Mental Health Commission of Canada, 2021).”⁶⁶ The authors note that oppression, colonialism, racism, and segregation contribute to mental health inequity for Black people today.

Owusu-Bempah and Jones reference an inquiry into police street checks in Halifax, as follows:

Research ... has linked concentrated police stop and search activities in neighborhoods to increased psychological distress and mental health issues in residents, especially men. These effects manifest as heightened nervousness, feelings of worthlessness, and severe psychological distress.⁶⁷

Mental stress resulting from police discrimination and negative interactions is a serious concern that can have far-reaching effects, including distrust of police and the justice system more broadly.⁶⁸

⁶⁵ Centre for Addiction and Mental Health, 2021. *op. cit.*

⁶⁶ *Ibid.*

⁶⁷ Akwasi Owusu-Bempah and Zilla Jones, 2023. *op. cit.*

⁶⁸ *Ibid.*

4 Discrimination and Overrepresentation in the Criminal Justice System

Inequities and overrepresentation are experienced by Black people at all stages of the criminal justice system: policing, courts and corrections. Again, it is important to recognize that Black people are not inherently more prone to committing crimes than any other racial group, including White people. Rather, it is the system itself that is criminogenic by virtue of its anti-Black racism and systemic discrimination, resulting in the overrepresentation of Black people in the system.

4.1 Policing

The policing of Black people has received attention for many years, especially in Canada's larger urban centres. Several studies have been conducted by experts in the field. In 2020, a report prepared for the Ontario Human Rights Commission found that:

Black people are grossly over-represented in police use of force incidents. The data also reveal that this gross racial disparity cannot be easily explained away by racial differences in criminal history, civilian behaviour towards the police at the time of the incident, civilian weapons use, civilian mental illness, civilian intoxication or local crime rates. In our opinion, these findings are completely consistent with allegations of racial bias.⁶⁹

The report found that the disparities covered all types of police use of force from firearms use to “lower-level” tactics. However, the report goes on to say the following:

Nonetheless, a counter-narrative will inevitably emerge. This counter narrative will hold that racial disparity does not mean racial discrimination. In other words, it will be argued that racial disparities in police use of force tactics merely reflect legitimate police practices and that data-driven allegations of police bias only serve to damage police-community relations.⁷⁰

The point being made is that the debate regarding police use of force against members of racialized communities will continue. The debate could be advanced, however, if an official effort were made to invest in “the continued, systematic collection of disaggregated racial data on police use of force and other important police decisions.”⁷¹ As well, all police services are urged to consider seriously a number of other steps to ensure racial bias does not negatively affect racialized communities. These steps would include, among others, screening against racial bias in recruitment procedures, effective anti-

⁶⁹ Wortley, S.; Laniyonu, A.; Laming, E. 2020. *Use of force by the Toronto Police Service: Final Report*. Ontario Human Rights Commission, page 137.

<https://www.ohrc.on.ca/sites/default/files/Use%20of%20force%20by%20the%20Toronto%20Police%20Service%20Final%20report.pdf>

⁷⁰ *Ibid.*, page 137.

⁷¹ *Ibid.*, page 137.

bias training, recruitment of more female officers,⁷² and more community engagement leading to improved community relations.⁷³

Implicit in this list of steps is the need to address racial profiling. According to Maynard,

Racial profiling – surveillance or police encounters that occur because of stereotypes regarding race, ethnicity or religion – serves an important role in determining police practices. The assumption, then, that Black people are likely to be criminal results in more Black people being watched, charged and incarcerated.⁷⁴

Racial profiling is a “self-fulfilling prophecy.”⁷⁵ The more it occurs, the more likely the chance of an individual being found guilty of a crime, typically a minor one. Disproportionate surveillance of Black people, especially youth, in their own neighbourhoods is therefore more likely to result in the apprehension and charging of more Black people than White people for the same types of offence.

A report prepared by experts for a case at the Ontario Court of Appeal explained that in a 2005 survey of Toronto high school students,

...over 50% of the Black students reported having been stopped and questioned by the police on two or more occasions in the previous two years, compared to only 23% of White, 11% of Asian, and 8% of South Asian students. Similarly, over 40% of Black students said that they had been physically searched by the police in the previous two years, compared to only 17% of their White and 11% of their Asian counterparts.⁷⁶

Another survey, this one of Toronto adults in 2007, found that “Black residents were three times more likely to be stopped and searched by the police in the previous two years and that this racial disparity could not be explained by racial differences in criminality, drug and alcohol use, driving habits, use of public spaces, poverty, or residence within a high-crime community.”⁷⁷ In other words, there appeared to be no explanation for the stopping and searching of Black individuals other than the fact they were Black.

⁷² *Ibid.* These authors suggest that female officers may introduce different communication styles and conflict resolution approaches, thus reducing potential racial tensions in policing.

⁷³ *Ibid.*, page 137.

⁷⁴ Robyn Maynard, *op. cit.*, page 87.

⁷⁵ *Ibid.*

⁷⁶ Akwasi Owusu-Bempah, Camisha Sibblis, Carl James, 2018. *Expert Report on Crime, Criminal Justice and the Experience of Black Canadians in Toronto, Ontario*. Report prepared for the Ontario Superior Court of Justice in *R. v. Morris*, 2018 ONSC 5186. <https://handbook.law.utoronto.ca/sites/default/files/users/alzner/R%20v%20Morris.AppendixA.pdf>

⁷⁷ Wortley & Owusu-Bempah, 2011. *The usual suspects: police stop and search practices in Canada*. In *Policing and Society*, 21(4), 395-407.

It is therefore not surprising that Black people have less confidence in the police than the rest of the Canadian population, except Indigenous people. A Justice Canada report stated the following:

According to the 2019 General Social Survey on victimization, nearly one in five (18%) Black people reported having “not very much” or “no” confidence in the police, which is more than double the proportion among the non-Indigenous, non-racialized population (8%).⁷⁸

Although some provinces are banning the practice of police issuing contact cards or “carding”, it provides an example of racial profiling that has had a significant impact on Black individuals, particularly young Black men. Maynard points out that an analysis by the *Toronto Star* showed that between 2008 and 2011, the Toronto Police Service handed out 1.25 million contact cards, of which nearly one-quarter were served to Black individuals.⁷⁹ Racial profiling by police is not limited to Toronto. Other police services have demonstrated the same practices in urban centres, as well as in rural and remote parts of the country.

Racial profiling by Montreal police has often been alleged. A Quebec Superior Court judge ruled in a 2024 class-action lawsuit involving a Black man and a Black rights organization seeking damages from the City of Montreal (and the Montreal police service) that the “phenomenon of racial profiling that manifests from the Montreal police is systemic” and acknowledged that the problem had existed for decades.⁸⁰ The judge reprimanded the city and the police service, and damages were awarded.

Similarly, in 2025 a Quebec Superior Court Judge approved a class action lawsuit over systemic racial profiling in traffic stops. The lawsuit named police in eight cities and the Attorney General of Quebec.⁸¹

In British Columbia, police services throughout the province, particularly those in Vancouver and other urban centres, have been confronted with multiple allegations of racial profiling and excessive use of force in cases involving Black and Indigenous individuals, as well as individuals with mental health challenges. In a report prepared for British Columbia’s Office of the Human Rights Commissioner,⁸² Scot Wortley concluded as follows:

Indigenous and Black people are either grossly or significantly over-represented in British Columbia arrest statistics. Furthermore, the data indicate that a great deal of police activity involves people experiencing mental health issues. Racial disparities likely result from a combination of higher rates of offending, police bias, and civilian reporting practices. Regardless

⁷⁸ Justice Canada, *Just Facts: Overrepresentation of Black people in the Canadian criminal justice system*, 2022. <https://www.justice.gc.ca/eng/rp-pr/jr/obpccjs-spnsjpc/index.html>

⁷⁹ Robyn Maynard, 2017, *op. cit.*, page 89.

⁸⁰ Cour Supérieure de Québec, District de Montréal, No. 500-06-000967-196, Le 3 septembre 2024. <https://citoyens.soquij.qc.ca/php/decision.php?ID=96DB8F09382B383821516CC63B274CD0>

⁸¹ National Post, May 11, 2025.

⁸² Scot Wortley, 2021. *Racial disparities in British Columbia police statistics: A preliminary examination of a complex issue*. https://bchumanrights.ca/wp-content/uploads/Wortley_Sep2021_Racial-disparities-police-statistics.pdf

of the cause, the over-representation of Indigenous, Black and other people of colour in police statistics is a problem that can no longer be ignored.

Similar issues have been found in Halifax. Wortley prepared an independent report for the Nova Scotia Human Rights Commission into police street checks in Nova Scotia in 2019.⁸³ He found that Black people were significantly overrepresented in street checks and that the results were often traumatizing for the individuals stopped.

It follows that Black people, while being disproportionately profiled and stopped by police, are also likely to be charged more frequently than their White counterparts. Frequently those charges have no legitimate basis and are inappropriate. This is often borne out in the prosecutorial review of charges before court proceedings and evidenced by the fact that Black people are more likely than White accused to encounter a withdrawal, dismissal or discharge of charges.⁸⁴

The evidence and analyses outlined above all point to a reality commonly known as over-policing.⁸⁵ Clearly, Black populations are over-policed. However, there is another serious issue faced by Black people known as under-policing. These terms are not contradictory – both occur. Black populations are under-policed when their collective or individual rights are not acknowledged or protected by police as they would be for White people. Anti-Black racism among police services and individual officers can lead to the downplaying of police responsibilities regarding Black people, and to inadequate police responses to legitimate requests for assistance by communities and individuals.⁸⁶

4.2 Criminal Courts

A case involving a young Black man was heard in the Ontario Court of Appeal in 2021. The Court began its written decision with the following:

It is beyond doubt that anti-Black racism, including both overt and systemic anti-Black racism, has been, and continues to be, a reality in Canadian society, and in particular in the Greater Toronto Area. That reality is reflected in many social institutions, most notably the criminal justice system. It is equally clear that anti-Black racism can have a profound and insidious impact on those who must endure it on a daily basis.⁸⁷

With that statement, the Ontario Court of Appeal in 2021 acknowledged the profound problems for Black people in Canadian society and in the criminal justice system. The Court reduced the sentence set by the trial judge in light of the convicted individual's experience with racism. Two cases heard

⁸³ Scot Wortley, 2019. *Halifax, Nova Scotia: Street Checks Report*. Prepared for the Nova Scotia Human Rights Commission. https://humanrights.novascotia.ca/sites/default/files/editor-uploads/halifax_street_checks_report_march_2019_0.pdf

⁸⁴ Saghbini & Paquin-Marseille, 2023. *Op. cit.*

⁸⁵ House of Commons of Canada, 2021. *Systemic Racism in Policing in Canada*, Report of the Standing Committee on Public Safety and National Security, 2021. <https://www.ourcommons.ca/Content/Committee/432/SECU/Reports/RP11434998/securp06/securp06-e.pdf>

⁸⁶ Akwasi Owusu-Bempah, Camisha Sibblis, Carl James, 2018. *Op. cit.*

⁸⁷ *R. v. Morris*, 2021 ONCA 680

earlier in the Ontario Court of Appeal also determined that anti-Black racism and discrimination in the justice system are serious issues, although in those cases the court noted it is the seriousness of the offence itself that must be paramount in sentencing.⁸⁸

A 2023 report by the Department of Justice provides an analysis of Black involvement as accused in criminal courts over an eleven-year period (2005/06 to 2015/16). The findings address issues facing Black people compared to White individuals and suggest the following:

...that Canadian criminal courts are contributing to differential and disproportionate outcomes for Black accused. Some of these outcomes (e.g., more likely to be sentenced to custody) result in prolonged involvement with the CJS.⁸⁹

Black accused are also more likely than White accused to be held in pre-trial detention (remanded to custody), even involving the same charge and similarity in other conditions.⁹⁰ This is often an additional disruption for the individual accused and their family and is another indication of discrimination.

Saghbini & Paquin-Marseille arrived at insightful conclusions, despite gaps in certain types of data. While they acknowledge that further research is required at all stages of the criminal justice system in order to better understand processes and results, they conclude with the following:

In sum, these findings suggest that Canadian criminal courts are contributing to different and disproportionate outcomes for Black people. Some of these different and disproportionate outcomes (e.g., being more likely to be sentenced to custody) can be described as contributing to the overrepresentation of Black people in the CJS by further entrenching them into the system.⁹¹

Again, more disaggregated data and detailed research are required to determine why this is the case.

While progressive work remains to be done, there are signs that the justice system is beginning to act on the issues facing Black accused. One initiative involves the use of Impact of Race and Culture Assessments (IRCAs).⁹² As described by the Department of Justice Canada,

IRCAs are pre-sentencing reports that help sentencing judges to better understand the effect of poverty, marginalization, racism, and social exclusion on the offender and their life experience. IRCAs explain the relationship between the offender's lived experiences of racism and discrimination and how they inform the circumstances of the offender, the offence committed, and the offender's experience with the justice system [As a result,] sentencing

⁸⁸ *R. v. Borde*, 2003 CanLII 4187 (ON CA); and *R. v. Hamilton*, 2004 CanLII 5549 (ON CA)

⁸⁹ Saghbini & Paquin-Marseille, 2023. *op. cit.*

⁹⁰ Gail Kellough & Scot Wortley, 2002. *Remand for Plea: Bail Decisions and Plea Bargaining as Commensurate Decisions*. *British Journal of Criminology*, 32 (1).

⁹¹ Saghbini & Paquin-Marseille, 2023. *op. cit.* page 28.

⁹² For example, in the Nova Scotia case *R. v. "X"* CanLII 2014 NSPC 95 where IRCA was first applied.

judges may recommend alternatives to incarceration and/or culturally appropriate accountability measures within a sentence of incarceration.⁹³

The use of IRCAs by judges may be a positive development. However, the extent of buy-in by judges and the frequency with which they are requesting IRCA reports is in question. The use of Gladue Reports in the Indigenous context has proved for several years to be an important component in judicial decision-making,⁹⁴ although it has been widely criticized as not affecting sentence length.⁹⁵ The same could be true in the sentencing of Black accused with the application of IRCAs. The federal government has indicated its support for expanding the use of IRCAs beyond sentencing to other decision-making points throughout the criminal justice system.⁹⁶ However, according to the Canadian Civil Liberties Association (CCLA), “to date, the case law and academic scholarship has largely focused on sentencing, not on judicial interim release.”⁹⁷ Evaluative research is required to assess the effectiveness of IRCAs and to identify changes, as required.

The CCLA also addressed the issue of Black accused being disproportionately denied release on bail. While s 493.2(b) of the *Criminal Code*⁹⁸, together with s 515 (13.1)⁹⁹ hold promise in this regard, the CCLA notes that “more research is necessary to evaluate whether and how bail courts are using s 493.2 and legal principles from the sentencing context to inform bail decisions for Black accused people – and whether such measures are having any impact on the over-representation of Black individuals in remand detention.”¹⁰⁰

⁹³ Department of Justice Canada, 2024. <https://www.justice.gc.ca/eng/fund-fina/gov-gouv/aid-aide/supporting-soutien.html>

⁹⁴ Scott Clark, 2019. *Overrepresentation of Indigenous People in the Criminal Justice System: Causes and Responses*. Department of Justice Canada. <https://www.justice.gc.ca/eng/rp-pr/jr/oip-cjs/oip-cjs-en.pdf>

⁹⁵ Hayden King & Paula Hill, 2024. *Twenty-Five Years of Gladue: Indigenous ‘Over-Incarceration’ & the Failure of the Criminal Justice System on the Grand River*. Yellowhead Institute. <https://yellowheadinstitute.org/gladue-indigenous-over-incarceration/>

⁹⁶ Department of Justice Canada, 2025. *Toward Transformative Change: An Implementation Plan for Canada’s Black Justice Strategy*. https://www.justice.gc.ca/eng/cj-jp/cbjs-scjn/ttc-ect/pdf/CS-24-175-Implementation_Plan-EN.pdf

⁹⁷ Canadian Civil Liberties Association and the Canadian Civil Liberties Education Trust, 2024, page 50. *Still Failing: The Deepening Crisis of Bail and Pre-Trial Detention in Canada*. https://ccla.org/wp-content/uploads/2024/02/CCLA_Bail-Reform-Report-2024.pdf

⁹⁸ *Criminal Code*, RSC, 1985, cC-46, s. 493.2(b) pertains to the interim release of Aboriginal accused or vulnerable populations and states that: “In making a decision under this Part, a peace officer, justice or judge shall give particular attention to the circumstances of accused who belong to a vulnerable population that is overrepresented in the criminal justice system and that is disadvantaged in obtaining release under this Part”. <https://laws-lois.justice.gc.ca/eng/acts/C-46/page-86.html#docCont>

⁹⁹ *Criminal Code*, RSC, 1985, cC-46, s. 515 (13.1) pertains to the judicial interim release of Aboriginal accused or vulnerable populations and states that: “A justice who makes an order under this section shall include in the record of proceedings a statement that sets out both how they determined whether the accused is an accused referred to in section 493.2 and their determination. If the justice determines that the accused is an accused referred to in section 493.2, they shall also include a statement indicating how they considered their particular circumstances, as required under that section”. <https://laws-lois.justice.gc.ca/eng/acts/C-46/page-89.html#docCont>

¹⁰⁰ *Ibid.*, page 50.

4.3 Corrections

As noted above, Black offenders are more likely to be sentenced to incarceration than White offenders. Further, Black people are 36 percent more likely to receive a long-term custodial sentence of two years or more (federal penitentiary time).¹⁰¹

In terms of admissions to provincial institutions, Black adults (aged 18 years and more) were overrepresented compared with White accused in 2020/21 (custody and community supervision).¹⁰² Similarly, Black youth (aged 12-17) were overrepresented in provincial correctional services, in both custody and community supervision. “Black youth counted for 10 percent of provincial corrections populations while representing only 4 percent of the overall youth population in those provinces.”¹⁰³

Various factors suggest anti-Black racism and racial discrimination exist in correctional facilities. For example, use-of-force incidents in federal institutions disproportionately involved Black offenders. While accounting for 9 percent of federal inmates, Black offenders accounted for 12 percent of all use-of-force incidents between 2015 and 2020. On the other hand, while White offenders represented 52 percent of the total incarcerated population, they accounted for 42 percent of use-of-force incidents.¹⁰⁴

Most federal prisoners are housed in medium security institutions. However, like Indigenous offenders, Black offenders are disproportionately housed in maximum security facilities and placed in Structured Intervention Units (SIUs).¹⁰⁵ In part, at least, this could be due to biased assessments of Black offenders with respect to their potential for higher risk behaviour, low motivation, and low potential for reintegration into society. Yet Black offenders have lower rates of reoffending on release and lower rates of returning to custody than their White counterparts.¹⁰⁶

A range of problems face Black inmates, as demonstrated in a 2013 special study of Black inmates in federal penitentiaries facilitated by the Office of the Correctional Investigator.¹⁰⁷ The study found negative outcomes and experiences for Black prisoners in several areas, including security classification, access to programming and employment opportunities, involuntary transfers, institutional discipline, the use of force, solitary confinement, and parole. In its 2022 Annual Report, the Office of the Correctional Investigator found continuing “institutional racism, challenges in accessing culturally-

¹⁰¹ Department of Justice Canada, 2022. *op. cit.*

¹⁰² Four provinces provided data for the study: Nova Scotia, Ontario, Alberta, British Columbia.

¹⁰³ Department of Justice Canada, 2022. *op. cit.*

¹⁰⁴ *Ibid.*

¹⁰⁵ Office of the Correctional Investigator, 2022. *Annual Report, 2021-2022*. Until 2019, SIUs were referred to as segregation or solitary confinement. The 2021-2022 *Annual Report* uses the older terms with reference to a 2013 study of Black inmates in federal institutions. (See FN 98, below)

¹⁰⁶ *Ibid.*

¹⁰⁷ Office of the Correctional Investigator, 2013. *A Case Study of Diversity in Corrections: The Black Inmate Experience in Federal Penitentiaries*.

relevant services and interventions, and correctional programming that does not reflect their lived experiences, as important challenges facing Black prisoners.”¹⁰⁸

The Office of the Correctional Investigator concludes its 2022 report by stating that “all of the problems and concerns identified in the Office’s 2013 investigation, including racism, discrimination, stereotyping and labelling of Black prisoners remain pervasive and continue to raise significant concerns”.¹⁰⁹ Negative assumptions about Black people are thus perpetuated, resulting in ongoing inequities. The fear of anti-Black racism and the subsequent stress can easily affect life chances and choices and exacerbate mental health problems among Black prisoners.

4.4 Victimization

As noted earlier in the report, Black people are overrepresented as homicide victims at a rate, four times higher than the rate for non-racialized people. Additionally, in 2023 Black people experienced the highest proportion of hate crimes (784 incidents) targeting a given race or ethnicity.¹¹⁰

Black people are also more likely to report lived experiences of physical or sexual abuse during their childhood. According to Statistics Canada, in 2018, a higher proportion of Black people (32%), than non-Black people (27%), aged 15 years or older, reported experiencing one or more incidents of physical or sexual abuse by an adult before the age of 15.¹¹¹ Black women were also more likely to have been physically or sexually assaulted in their lifetime than other racialized women.¹¹²

Although there is evidence of the overrepresentation of Black victimization through self-reported victimization surveys and police homicide and hate crime data, the extent of Black victimization is still unknown due to a lack of disaggregated data and race-based data collection practices. The Statistics Canada Disaggregated Data Action Plan, currently in progress, may help address this gap.¹¹³

¹⁰⁸ Office of the Correctional Investigator, 2022. *op. cit.*

¹⁰⁹ *Ibid.*, page 69.

¹¹⁰ Statistics Canada, 2023b. *Police-reported hate crime in Canada, 2023.*

¹¹¹ Justice Canada, 2022. *op. cit.*

¹¹² Statistics Canada, 2021b. *Intimate partner violence: Experiences of visible minority women in Canada, 2018.*

¹¹³ Statistics Canada. *Disaggregated Data Action Plan. op. cit.*

5 Concluding Thoughts

The effects of anti-Black racism, discrimination and segregation in Canada have been traumatic and intergenerational since the 1600s. The practice of slavery and the subsequent treatment of Black people in contexts such as Africville were based on the presumption of Black people as lesser humans. These attitudes continue to exist unexamined in many ways, some subtle and some overt. Anti-Black racism and unconscious bias by the majority population continue to create and perpetuate socio-economic marginalization, which has led to exclusionary impacts on Black communities, families and individuals, including children. Employment, education, housing, child protection services, and mental health services have all been designed for the benefit of the majority and so are inadequate for marginalized peoples, including Black people. The social determinants of justice for Black people compare negatively with those of other racial groups, especially with White Canadians. Black communities and individuals continue to experience relative poverty and lack of equal opportunity.

Black people are not more naturally inclined to commit crimes than any other racial group, including White people. Canadian society, through long-standing discriminatory policies and practices, has engendered an environment wherein the criminal justice system as part of society has been empowered to treat Black people unfairly. The cumulative effects of anti-Black racism and discrimination in Canadian society and many of its institutions has led to the overrepresentation of Black people in the criminal justice system. While there have been recent initiatives ideally leading to improvements in the system, much remains to be done. This includes efforts to ensure the availability of race-based and disaggregated data to accurately measure the extent of and address the overrepresentation of Black people at each stage of the criminal justice process.

The 2017 report of the United Nations Working Group cited earlier in this report is worth noting again. The Working Group highlighted the continuing challenges for Black people due to the historical entrenchment of anti-Black racism in Canadian institutions and policies, so that it is “functionally normalized or rendered invisible, especially to the dominant group.”¹¹⁴

We must all take responsibility for understanding our varied lives and for ensuring a fair and equal life for all people in Canada, regardless of colour. Hopefully, this report will help.

¹¹⁴ Human Rights Council, United Nations General Assembly, 2017. *op. cit.*

6 Glossary

The following defines terms and concepts as they are applied in this report. The information is taken from Akwasi Owusu-Bempah and Zilla Jones, 2023. *Canada's Black Justice Strategy: Framework*, Department of Justice Canada. [https://www.justice.gc.ca/eng/cj-jp/cbjs-scjn/framework-cadre/pdf/Framework for Canadas Black Justice Strategy.pdf](https://www.justice.gc.ca/eng/cj-jp/cbjs-scjn/framework-cadre/pdf/Framework%20for%20Canadas%20Black%20Justice%20Strategy.pdf)

Race: “Race is a term used to classify people into groups based principally on physical traits (phenotypes) such as skin colour. Racial categories are not based on science or biology but on differences that society has created (i.e., “socially constructed”), with significant consequences for people’s lives. Racial categories may vary over time and place and can overlap with ethnic, cultural or religious groupings”.¹¹⁵

Anti-Black racism: “Anti-Black racism is prejudice, attitudes, beliefs, stereotyping and discrimination that is directed at people of African descent and is rooted in their unique history and experience of enslavement and its legacy. Anti-Black racism is deeply entrenched in Canadian institutions, policies and practices, to the extent that anti-Black racism is either functionally normalized or rendered invisible to the larger White society. Anti-Black racism is manifest in the current social, economic, and political marginalization of African Canadians, which includes unequal opportunities, lower socio-economic status, higher unemployment, significant poverty rates and overrepresentation in the criminal justice system.”¹¹⁶

Discrimination: “Treating someone unfairly by either imposing a burden on them, or denying them a privilege, benefit or opportunity enjoyed by others, because of their race, citizenship, family status, disability, sex or other personal characteristics.”¹¹⁷

Racial profiling: “Racial profiling is any action undertaken for reasons of safety, security or public protection, that relies on stereotypes about race, colour, ethnicity, ancestry, religion, or place of origin, or on a combination of those traits, rather than on a reasonable suspicion, to single out an individual for greater scrutiny or different treatment.”¹¹⁸

Systemic and institutional racism: “Consists of patterns of behaviour, policies or practices that are part of the social or administrative structures of an organization, and which create or perpetuate a position of relative disadvantage for racialized persons. These appear neutral on the surface but, nevertheless, have an exclusionary impact on racialized persons.”¹¹⁹

¹¹⁵ Government of Ontario, 2021 quoted in Akwasi Owusu-Bempah and Zilla Jones, 2023. *Canada's Black Justice Strategy: Framework*, Department of Justice Canada.

¹¹⁶ *Ibid.*

¹¹⁷ Canadian Heritage, 2019 quoted in Akwasi Owusu-Bempah and Zilla Jones, 2023. *Canada's Black Justice Strategy: Framework*, Department of Justice Canada.

¹¹⁸ Government of Ontario, 2021. *op. cit.*

¹¹⁹ *Ibid.*

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