

FOR IMMEDIATE RELEASE

ONTARIO'S YOUTH BAIL SYSTEM HARMS KIDS WITH NEEDLESS JAIL TIME

CANADIAN LAW SAYS CHILDREN SHOULD BE JAILED ONLY FOR THE MOST SERIOUS CRIMES, BUT NEW COMPREHENSIVE STUDY SHOWS YOUTH BAIL SYSTEM UNDERMINES THAT PROMISE – AND RACIALIZED TEENS ARE HARDEST HIT

TORONTO, ON – March 23, 2021 – The John Howard Society of Ontario (JHSO) is unveiling the concerning results of a major new study of young people's experiences with the bail system. [Unequal Justice: Experiences and Outcomes of Young People in Ontario's Youth Bail System](#) is a comprehensive original report drawing from large government datasets, as well as interviews with affected youth and stakeholders. Two companion publications, also released today, distill the findings for press, policymakers and the public: a [highlights document summarizing the research](#), and an [interactive website that tells the story](#) using compelling visuals and eye-opening quotes from formerly imprisoned youth.

The research shows that despite landmark legislation meant to sharply curb youth incarceration in Canada – the *Youth Criminal Justice Act* of 2003 – many young people are still spending significant time behind bars before trial as a result of inefficient bail court processes and minor infractions that would shock many Canadians. In fact, the data analysis revealed that some trends in pre-trial detention for youth are worsening with time, leading young people to spend longer periods behind bars or with restrictive bail conditions, often with devastating outcomes. In addition, the data showed that Black and Indigenous youth are disproportionately detained pre-trial under the most restrictive conditions in secure detention.

"For a child, any time spent in jail is traumatic, with lasting impacts on mental and physical health, schooling and employment," said Safiyah Husein, Senior Policy Analyst with JHSO. "For this reason, the law strictly limits incarceration as a punishment for youth. Yet the bail system still puts many kids behind bars as they wait for court appearances, often for minor breaches of bail conditions, like curfews. This undermines the goal of keeping youth out of jail."

Key research findings include:

- Black and Indigenous children are overrepresented in admissions to pre-trial detention. They are also disproportionately held under the most restrictive conditions in secure detention.
- The proportion of youth cases that involve multiple court hearings to decide bail is rising, and the wait times between those hearings is also getting longer. This means many young people, most of whom are ultimately granted bail, are languishing in jail for longer periods *while presumed innocent*.
- After the bail process, young people's cases are also taking longer to resolve. In 2006, 44% of youth cases were resolved in three months or less. In 2017, that had dropped to 35% - and 38% of cases took six months or longer.
- Long waits for case resolution mean young people are spending more time with onerous and restrictive bail conditions. These dictate many aspects of everyday life and turn minor missteps – like being a few minutes late for curfew, or failing to follow household rules, like washing the dishes – into crimes.

416 408-4282

info@johnhoward.on.ca

342 Queen Street East
Toronto, ON M5A 1S8





- These “failure to comply” cases represent more than a fifth of youth bail cases in Ontario. In other words, many young people are being deeply entrenched in the justice system for many of the ordinary behaviours of childhood.
- Rates of pre-trial detention for white children dropped significantly between 2006 and 2015, while Black and Indigenous children saw their pre-trial incarceration rates remain flat or increase slightly. In other words, an important benefit of the YCJA – keeping children out of jail – has not been equally shared by racialized communities.
- Regional variations mean unequal youth justice practices across the province, possibly due to discrepancies in the availability of diversion and support programs.

JHSO has developed a targeted series of policy recommendations to ensure that all youth benefit equally from the legal presumption of release established in the YCJA. These measures include:

- Requiring judges to state on record the reasons for bail conditions imposed, to discourage overuse.
- Investing in widespread alternatives to jail during the bail phase, especially for the most vulnerable children.
- Better connecting police with information about local diversion programs.
- Potential adoption of a “charge approval” model, in which police recommend a charge but a Crown prosecutor must approve it.
- Collecting and publicly reporting on data on racial disparities in pre-trial detention.
- Providing intensive case management to young people after their second bail appearance, and requiring courts to track and report on youth cases that take more than two appearances for a bail decision. Courts should also create plans to demonstrate how they intend to reduce racial disparities in pre-trial detention, in collaboration with the communities they serve.
- Culturally appropriate discharge planning for all young people jailed for any length of time.

“Bail is a crucial early phase of the youth justice process that can set the stage for the rest of a child’s life,” said JHSO Senior Policy Analyst Safiyah Husein. “Current youth bail practices in Ontario set many kids up to fail, and this disproportionately hurts BIPOC youth. But we can change this today, by adopting proven practices that serve to realize the full potential of the *Youth Criminal Justice Act*.”

Quotes

“Access to reasonable bail in a timely manner is vital for a fair and functioning criminal justice system, particularly for youth. JHSO’s *Unequal Justice* is an important reminder that the existing system is in need of meaningful intervention, especially when it comes to the experiences of Black youth. *Unequal Justice* calls us to breathe life into the principles that govern youth criminal justice and to ensure that justice is not in fact unequal.” – Fareeda Adam, Black Legal Action Centre

“When access to justice becomes a luxury afforded to particular segments of society based on race, the foundation for which our legal and democratic principles are based on is threatened. The JHSO’s *Unequal Justice* report highlights avoidable racial disparities within the Youth Bail System that policymakers need to urgently address.” – Saeed Selvam, Public Policy, Laidlaw Foundation

“Often when we talk about youth crime rates, people are concerned about violence or drug offences, but pre-trial detention and access to reasonable bail are pressing concerns in Canadian youth justice. This report by JHSO highlights the significant problem of administrative offences and pre-trial detention amongst youth, and even more importantly, sheds light on the regional, racial, and gendered trends in bail and detention. We know that spending time in jail is incredibly developmentally harmful for youth, but by identifying these problems, we can begin to address them with evidence-based responses.”

– Dr. Jessica Sutherland, Department of Psychology, York University



Data Sources used in *Unequal Justice*:

- Data from the Ministry of Attorney General's Integrated Case Outcome Network (ICON) of all youth cases brought to bail court that reached a disposition between the 2006 and 2017 fiscal years (159 301 youth cases).
- Data from the Ministry of Children, Community and Social Services on all youth admissions to open and secure detention in the province broken down by race and gender, between the 2006 and 2015 fiscal years (64 111 admissions).
- Focus groups with youth with lived experience of the bail system from across the province and consultations with stakeholders with experience and expertise in the youth criminal justice system.

-30-

About John Howard Society of Ontario

For more than 90 years, we've worked to keep the humanity in justice. Today we continue to build a safer Ontario by supporting the people and communities affected by the criminal justice system. Our 19 local offices deliver more than 80 evidence-based programs and services focused on prevention, intervention and reintegration across the province. These range from helping youth develop the life skills that will let them achieve their full potential, to helping families navigate issues of criminal justice, to providing job training for those leaving incarceration so they can contribute to their community in a meaningful way. To learn more, please visit johnhoward.on.ca.

JHSO wants to acknowledge the support of the **Law Foundation of Ontario** and the **Laidlaw Foundation** who provided grants that made this research possible. We also wish to acknowledge the work of **Helios Design Lab** for bringing the real spoken stories of youth from the *Unequal Justice* study to life in a most inspired way.

For more information, please contact:

Jacqueline Tasca

jtasca@johnhoward.on.ca

Phone: 416-408-4282 Ext 234