

Anti-Black Racism in the Criminal Justice System

Anti-Black racism is deeply embedded in social institutions. This spotlight highlights anti-Black racism at various stages of the criminal justice system.



Systemic racism is caused by institutional biases that are hidden in policies, practices, and processes that work for or against people based on race.

Anti-Black racism (ABR) is prejudice, attitudes, beliefs, stereotyping and discrimination that is directed against the Black population. It is deeply rooted and reinforced in Canadian institutions, policies, and practices. Anti-Black Racism is manifested in the social, economic, and political marginalization of Black Canadians in society, most notably the lack of opportunities, lower socio-economic status, higher unemployment, significant poverty rates, and overrepresentation in the criminal justice system.¹

Anti-Black racism in Canada can be traced back to slavery and the legacy of segregation and disenfranchisement of Black Canadians. In the early 20th century, Black people were systematically dehumanized and commonly associated with aggression, violence, and danger. The association of Blackness with violence and criminality was used to control and justify the restriction of Black entry into Canada.²

Anti-Black racism can be overt and malicious or more subtle, like unconscious bias or laws that appear to treat everyone equally but have differential impacts for Black Canadians.

How does anti-Black racism manifest in the criminal justice system?

Anti-Black racism impacts Black Ontarians at every stage of the criminal justice system. The following are some examples that highlight the manifestation of anti-Black racism in various stages of the criminal justice system in Ontario.

Policing



Black people are overrepresented in police stops and searches and are more likely than members of other racial groups to be stopped, searched, questioned and charged by the police.

Black Ontarians are disproportionately impacted by “**carding**” which refers to the practice of arbitrarily stopping individuals and collecting their personal information.

Black Ontarians are also seriously injured or killed as a result of police interactions at significantly higher rates than other racial groups.

Black people are **2.3 times more** likely than white people in Toronto to have firearms “pointed where no weapons were perceived” by an officer to be on their person.³

Black people are also overrepresented in use of force shootings and police shooting deaths. Between 2013 and 2017, a Black person in Toronto was **20 times more** likely to be involved in a fatal shooting by Toronto Police Services than a white person.⁴

Black females are **4 times more** likely to receive a “disturbing the peace” offence than white women, and **6 times more** likely than the rate for women of other racial minority groups.⁵

A 6-year-old Black girl in Ontario was the youngest person to have ever been forcibly handcuffed in Canada.⁶



Policing



Black residents in Toronto, Ontario are **3 times** more likely to be stopped and searched by the police than white residents.⁷

Black people are **4 times more** likely to be charged with an “out-of-sight” traffic violation than their representation in the general population would predict.⁸

A Montreal study on **Black youth** found that Black girls were **3 times more** likely than their white counterparts to have been arrested two or more times.⁹

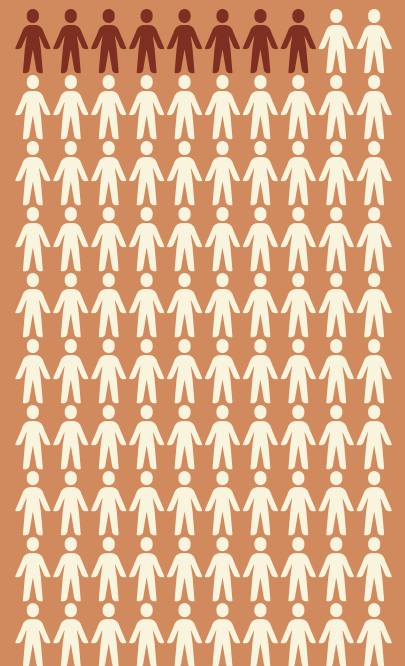
Black males are **7.4 times more** likely to appear in charges that result in non-convictions than their representation in the general public would predict. This is an indicator that Black people are more vulnerable to unnecessary charges that lead to non-conviction.¹⁰

25.9% of Black respondents to an Ontario-wide survey in 2015, reported being stopped and questioned by police, and had information recorded that was “unconnected to any specific traffic violation, criminal investigation or specific suspect description”.¹¹

According to an analysis of over 1.7 million “contact cards” completed by Toronto police between 2003 and 2008, **Black people** comprised almost **25%** of those documents while only representing **8.4%** of the population.¹²

Black males are **9.4 times more** likely to be charged with an obstruct justice offence than their representation in the general population would predict.¹³

Black males are **2.8 times more** likely to receive a “disturbing the peace” offence than white males, and **9.5 times more** likely than the rate for males of other racial groups.¹⁴



The Courts

Court data in Ontario does not include information about the race of individuals so studies are not able to look at court outcomes or processes broken down by race.



However, studies have found that there are notable differences in bail decisions, signalling the effect of anti-Black racism in court discretion. Black accused are more likely to be detained before trial and for longer than White accused.

The denial of bail has serious consequences for the accused, including impacts to housing and employment, negative psychological impacts and potentially longer custodial sentences than those who are found guilty but not detained before trial.

Black accused spend longer, on average, in detention than white accused charged with the same offense.¹⁵

An older study, in 2002, found that **15.5% of Black accused** were held until their trial compared to **7.3% of White accused**.¹⁶



Incarceration



The impact of anti-Black racism is seen in the overrepresentation of Black Ontarians in the corrections population. Black youth, in particular, continue to be over-represented in admissions to pre-trial detention, and particularly secure detention, the more restrictive form of pre-trial incarceration.¹⁷

Black people make up **8.1%** of the federal prison population but only **3.5%** of the general Canadian population.¹⁸

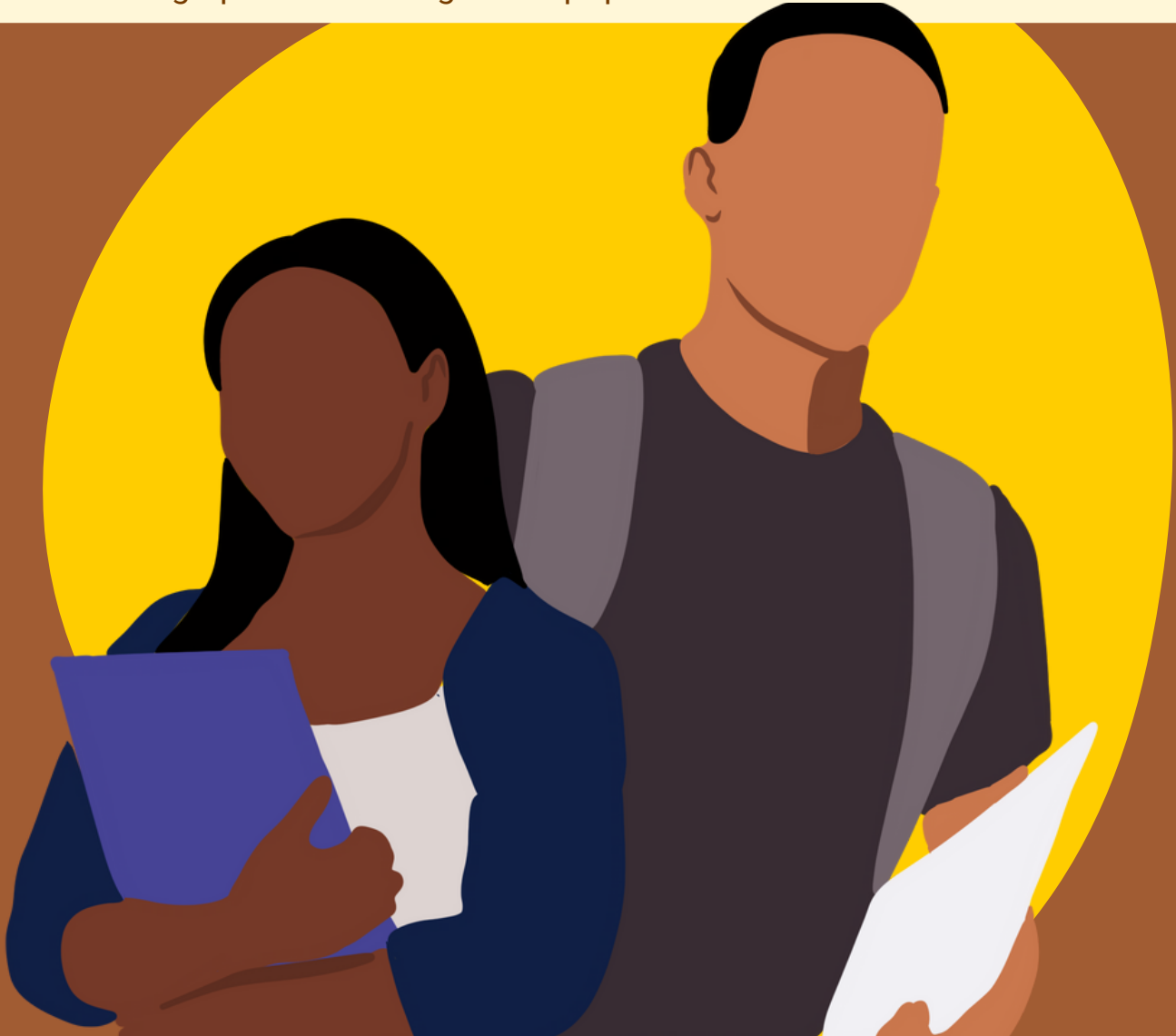
In 2010, **Black adults** accounted for **17.7%** of admissions to provincial custody while making up **3.9%** of the overall population.

Black men spent **longer** in provincial correctional facilities between 2005 and 2015 than other race categories.¹⁹

Incarceration

In 2011-2012, **Black youth** accounted for **24.1% of admissions** to custody in Ontario while making up only **3%** of the province's youth population.²⁰

In 2016, **Black youth** represented **15.3% of admissions** to pre-trial detention while making up **7.1%** of the general population.²¹



In 2016, **Black youth** made up **20.6% of admissions** to secure pre-trial detention.²²

Black youth are **4 times more** likely than their white counterparts to be incarcerated.²³

Criminal Records

The stigma associated with a criminal record has detrimental effects on individuals and can act as a barrier to securing employment, housing or educational opportunities. For Black Ontarians, the stigma associated with a criminal record is compounded by anti-Black racism.

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%).**²⁴



Calls for Action



The United Nations Working Group of Experts on People of African Descent visited Canada in 2016. Following this visit, they drafted a report²⁵ outlining concerns about systemic racism, disproportionately high incarceration rates and poor health outcomes for Black Canadians. They made a number of recommendations to address and combat anti-Black racism in Canada including some recommendations specific to the criminal justice system such as:

- Develop and implement a national corrections strategy to address the high incarceration rates of Black Canadians and ensure anti-discriminatory and culturally specific services for Black Canadians involved with the justice system;
- Abolish the practice of segregation/solitary confinement and explore alternatives to lockdowns in correctional facilities and alternatives to imprisonment;
- Provide training in unconscious bias to justice system actors including prosecutors, judges, lawyers and police officers;
- Increase the representation of Black people in law enforcement, correctional services and the judiciary; and,
- Gather data on the treatment of Black Canadians in the criminal justice system.

Calls for Action

Many of these recommendations echo the calls for action from Black communities and advocacy organizations in Ontario. Particularly the call for gathering data on Black Canadians in the justice system. Currently, there is a lack of literature and data to highlight the overrepresentation of racialized individuals in the criminal justice system. Lack of this publicized data fosters and shields the racial inequalities that exist in the justice system.



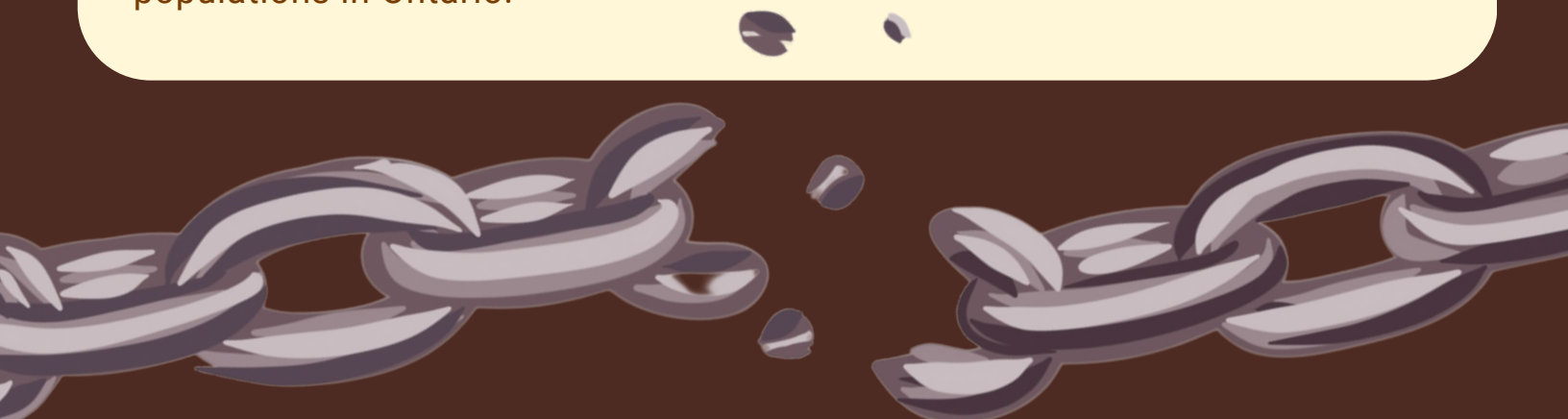
The Government currently requires, under the *Anti-Racism Act*,²⁶ that race-based data be collected by the Ministries, however the public does not have access to this data. The collection of race-based disaggregated data is crucial in order to understand the true impacts of anti-Black racism and to address the racial inequalities that are engrained in the justice system. Analysis of race-based data also allows for the creation of appropriate interventions and required policy/practice changes to stop and prevent adverse impacts to Black Ontarians and other racialized populations.

To Make Real Change Happen

Individuals involved with the justice system face stigma and marginalization, and this is compounded by anti-Black racism for Black communities. Anti-Black racism is deeply engrained in our institutions, laws and policies.

Confronting anti-Black racism requires ongoing commitments and focused strategies by governments, institutions, organizations, and individuals. At a provincial level, the government has laid out plans to address racial disparities in the justice system through the Anti-Black Racism Strategy.²⁷ All levels of government must make efforts to address anti-Black racism a priority. One important step forward would be the collection and disclosure of race-based statistics to better understand the scope of the issue of anti-Black racism and the magnitude of its effects on the Black population, and inform interventions.

JHSO recognizes our responsibility to confront anti-Black racism in our organization, criminal justice system and greater society and we understand the effort, learning and perseverance required to do that. We commit to continuing to learn about and implement ways to make our organization more inclusive. We work to highlight anti-Black racism and its impacts in the work of the Centre & Policy, and we commit to working with Black communities and organizations to ensure our work is relevant and responsive to the Black populations in Ontario.



About us

For more than 90 years, the John Howard Society of Ontario has worked to keep the humanity in justice. Through 19 local offices across Ontario, the JHSO delivers more than 80 evidence-based programs and services in support of those affected by the criminal justice system. In doing so, we help build safer, more resilient communities. JHSO's Centre of Research & Policy specializes in bridging the gap between analysis and frontline service delivery. By collaborating closely with our local offices, the Centre's team develops policy positions that truly reflect the needs of each community, advances those positions to governments and other organizations, educates the public on the critical issues, and evaluates program efficacy to guide future work.

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