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Black Youth and the Criminal Justice System:

Summary Report of an
Engagement Process in Canada

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Canada 



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Black Youth and the Criminal Justice System: Summary Report of an Engagement Process in Canada.

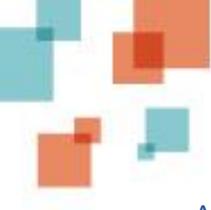
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Table of Contents

Acknowledgements	4
Executive Summary	7
1. Introduction	9
2. Background and Context	9
3. Overview of the Engagement Process	11
4. Limitations	13
5. Engagement Findings	13
5.1 Circumstances that Contribute to Black Youth Coming into Contact with the Youth Criminal Justice System	13
5.1.1 Over-policing	14
Over-policing in schools and the school-to-prison pipeline	14
Over-policing Black communities	15
a. Heavy police presence in economically marginalized neighbourhoods, racial profiling, stop and search, and discretionary policing	15
b. Police reliance on child welfare agencies	17
c. Policing mental health.....	18
5.1.2 Committing Criminal Offences: Survival and Identity	18
Poverty, environment, and intergenerational impacts	19
Poverty, discrimination, and impact on family dynamics	20
The school-to-prison pipeline	22
Labelling, negative self-concept, criminalization, and cultures of mistrust	23
5.2 Experiences Navigating through the Criminal Justice System	24
Policing	25
Courts.....	26
Legal representation.....	27
Custody	28
Probation and release from custody	30
Impacts of COVID-19.....	32
6. Priority Areas for Action and Promising Programs, Services, and Approaches	33
Addressing low-income concentration, survival-motivated crime, and community prevention	33
Addressing the needs of newcomers	34
Addressing education, schooling, and the school-to-prison pipeline	35
Addressing over-policing, under-policing, and community safety	37
Addressing differential outcomes in the courts, ineffective legal representation, and legislation.....	38
Addressing anti-Black racism in custody and detention	41
Addressing failures in release, community reintegration, and recidivism.....	42
7. Conclusion	45
Annex 1: Stages of the Criminal Justice System	47
References	48



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- [The HOOD FAMS](#) (Winnipeg);
- [Think 2wice](#) (Toronto);
- [One By One Movement](#) (Toronto);
- [Centre for Resilience and Social Development](#) (Ottawa);
- [Hoodstock](#) (Montréal); and,
- [DeRico Symonds](#) (Halifax).

Finally, we would like to thank the Department of Justice and the Federal Anti-Racism Secretariat at the Department of Canadian Heritage for undertaking this important work.



Glossary

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.” (Government of Ontario, 2021)

Anti-racism approach: “Anti-racism is a process, a systematic method of analysis, and a proactive course of action rooted in the recognition of the existence of racism, including systemic racism. Anti-racism actively seeks to identify, remove, prevent, and mitigate racially inequitable outcomes and power imbalances between groups and change the structures that sustain inequities.” (Government of Ontario, 2021)

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.” (Canadian Heritage, 2019a)

Intersectionality

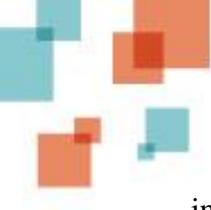
“Acknowledges the ways in which people's lives are shaped by their multiple and overlapping identities and social locations, which, together, can produce a unique and distinct experience for that individual or group, for example, creating additional barriers or opportunities.” (Government of Canada, Canadian Heritage, 2019b)

Low-income concentration: “Low-income concentration occurs when many low-income persons live in close proximity to each other. When the share of low-income population is high relative to the share of the general population in a neighbourhood, we say that geographic concentration of low income exists.” (Statistics Canada, 2011, p. 9)

Low-income neighbourhood: “A low-income neighbourhood is defined as one in which 30% or more persons had low incomes...Individuals are defined as low income if the after-tax income of their household falls below 50% of the median adjusted household after-tax income in Canada in 2010.” (Statistics Canada, 2011)

Marginalization: “Marginalization is a long-term, structural process of systemic discrimination that creates a class of disadvantaged minorities. Marginalized groups become permanently confined to the fringes of society. Their status is perpetuated through various dimensions of exclusion, particularly in the labour market, from full and meaningful participation in society.” (Government of Ontario, 2021)

Over-policing: Refers to an excessive response from law enforcement characterized by a heavy police presence and over-surveillance, an aggressive response to minor offences, frequent



interactions with people who are not breaking any laws especially among low-income individuals and racialized minorities.

Under-policing: Refers to an inadequate response from law enforcement to victimization or potential victimization for reasons tied to the group the person comes from (Ontario Human Rights Commission, 2019).

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.” (Government of Ontario, 2021)

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.” (Government of Ontario, 2021)

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.” (Canadian Heritage, 2019a)



Executive Summary

The Black population in Canada is diverse; it includes communities that have existed for generations across the country, as well as more recent immigrant groups who are diverse in terms of ethnicities, languages, religions, gender identities, sexual orientations, and countries of origin. Despite these differences, a common feature of the Black experience in Canada is anti-Black racism—across time, regions, institutions, and various areas of social life. Anti-Black racism is rooted in Canada’s history, through its colonialism, slavery, segregation, and restrictive immigration practices. This history set the stage for the experiences of subsequent generations of Black Canadians, and more recent Black newcomers, by laying the foundations of anti-Black racism that persists to this day (Owusu-Bempah & Gabbidon, 2020). Anti-Black racism is evidenced through systems that produce and perpetuate different outcomes for Black people in comparison to most other Canadians: decreased opportunities for educational success, reduced employment options and career advancement opportunities, increased rates of poverty and unemployment, and elevated levels of contact with the criminal justice system (CJS) (DasGupta et al., 2020; Owusu-Bempah et al., 2021). Policy makers and scholars have increasingly acknowledged the experiences and overrepresentation of Black people in Canada’s CJS as an important social issue and a legacy of Canada’s colonial past (Owusu-Bempah & Gabbidon, 2020). However, despite decades of work on this topic, a comprehensive picture of Black youth’s views of and experiences with the youth CJS across Canada remains absent.

Between August 2020 and April 2021, the Department of Justice Canada (JUS), in collaboration with the Federal Anti-Racism Secretariat at the Department of Canadian Heritage, conducted an engagement process to better understand the challenges facing Black youth who have been in contact with and involved in the Canadian youth CJS. This process supports the federal government’s broader efforts under Canada’s Anti-Racism Strategy to address access to justice issues. It is also part of the Government of Canada’s commitment to the International Decade for People of African Descent, which has prioritized justice as one of three overarching pillars. The initiative also supports JUS’s 2021 Mandate Letter commitment to address systemic discrimination and the overrepresentation of Black people in the CJS.

A community-based approach was taken for this engagement process. The work was led by seven community liaisons who organized and guided focused virtual engagement sessions and meetings in six cities across Canada: Calgary, Winnipeg, Toronto, Ottawa, Montreal, and Halifax. A total of 224 individuals with diverse intersectional backgrounds and experiences participated in these discussions. Participants included Black youth aged 18 to 29, who have had experiences with the CJS under the *Youth Criminal Justice Act* (YCJA) when they were 12 to 17 years old, as well as family members and other key stakeholders who could also speak to the experiences of Black youth who have come into contact with the CJS. Each community liaison provided a site-specific summary of key findings and suggested priority areas for action based on their sessions. The following report summarizes the content of the seven site-specific summaries.

Participants consulted through this engagement process identified a variety of systemic, social, economic, and geographical factors that increase the likelihood that Black youth come in contact with the CJS. 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. Youth spoke of engaging in criminality flowing from the attraction of otherwise unattainable lifestyles, as a way of finding family and community, and in response to



systemic barriers to participating in mainstream society. Anti-Black racism was present in most if not all of the accounts shared by participants who described Black youth's pathways to the CJS.

Anti-Black racism was also seen to influence Black youth's experiences with criminal justice institutions and its representatives. First contact with the system, in the form of policing, came very early for many youth, often in schools and within their neighbourhoods. At times, first contacts were absent of any criminality on the part of these young people. The youth, their families and stakeholders spoke of dehumanizing and degrading treatment at the hands of the police and court actors. They also spoke of abusive, violent, and potentially criminal treatment by custodial facility actors. Poverty, language barriers and mental health struggles worsened treatment and as a result, lived experiences.

There was a near unanimous perception that these criminal justice agencies are not well equipped to deal with the specific needs of the ethnically and culturally diverse Black populations in Canada. There was also relative consensus that anti-Black racism is embedded in criminal justice agencies, as a factor driving the ways in which Black populations are treated throughout the entire CJS system. Participants engaged through this process identified the following key priority areas for action:

- Financial security;
- Newcomer settlement;
- Representation;
- Mental health;
- Education;
- Employment;
- Policing and community safety;
- Courts;
- Corrections; and,
- Community release and reintegration.

Participants' stories clearly demonstrate that reducing Black youth's levels of contact with the CJS and improving their experience within justice institutions requires not only criminal justice reform, but also efforts within all the various social systems that shape the lives of Black youth, their families and their communities. This report exists alongside countless other reports, books, journal articles, documentaries, and news stories that all document racial injustices against Black people in Canada and call for concrete action for positive change that lasts.

Though reflective of the experiences of Black youth across Canada, this report is not exhaustive due to a number of limitations. The experiences of Black youth currently aged 12 to 17 were not included because accessing these youth would require a court order. These sessions took place in six cities across five provinces; the specific experiences of Black youth in other provinces and territories and in rural areas of Canada are not included. Gendered differences in factors contributing to interactions with the CJS could not be discussed because most of the youth participants were boys and men. As Black youth participants may also have experience(s) with the adult CJS, their stories may not distinguish between their experiences with the youth and adult systems. Lastly, the pandemic presented an important limitation as it had an impact on the level of participation in these engagement sessions.



1. Introduction

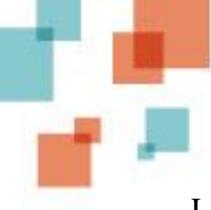
Black people have a long history in Canada and have played an integral role in the formation of the country (Winks, 1997). Despite their contributions, and Canada's reputation as an open and tolerant nation, Black populations continue to experience various forms of discrimination and marginalization. Over the past two decades, the experiences and overrepresentation of Black people in Canada's criminal justice system (CJS) have been increasingly acknowledged by policy makers and scholars as an important social issue and a legacy of Canada's colonial past (Owusu-Bempah & Gabbidon, 2020). Despite decades of work on this topic, there is no comprehensive picture of Black youth's views of and experiences with the youth CJS across Canada. To address this gap, the Department of Justice Canada (JUS), in collaboration with the Federal Anti-Racism Secretariat at the Department of Canadian Heritage, initiated an engagement process in 2020 to better understand the challenges facing Black youth who have been in contact with and involved in the Canadian youth CJS. This report presents a summary of key findings and suggested priority areas for action, based on community-led engagement sessions held in six cities across the country: Calgary, Winnipeg, Toronto, Ottawa, Montreal and Halifax.

A note to readers: When reading the firsthand testimonies presented in this report, readers are invited to be conscious of their own racial biases through which they are conditioned to vilify Black youth and doubt the truthfulness of their words. Instead of judgement, readers are encouraged to practice curiosity.

2. Background and Context

The Black population in Canada is diverse; it includes communities that have existed for generations across the country, as well as more recent immigrant groups who are diverse in terms of ethnicities, languages, religions, gender identities, sexual orientations, and countries of origin. Despite these differences, a common feature of the Black experience in Canada is anti-Black racism—across time, regions, institutions, and various areas of social life. This is not to say that every Black person in Canada experiences racism in the same way, and all the time. Rather structural, systemic, institutional, and individual forms of racism are present in this country and have a negative impact on the collective Black experience, and by extension, on Canadian society as a whole. This is evidenced through the different outcomes experienced by Black people in comparison to most other Canadians: decreased opportunities for educational success, reduced employment options and career advancement opportunities, increased rates of poverty and unemployment, and elevated levels of contact with the CJS (DasGupta et al., 2020; Owusu-Bempah et al., 2021).

Anti-Black racism is rooted in Canada's history—in its experiences with colonialism, slavery, segregation, and restrictive immigration practices. Slavery was practiced for more than 200 years in the colonies that would become Canada, and the oppressed status of Black people persisted long after slavery was abolished (Maynard, 2017). For example, Canada's first Prime Minister, John A. Macdonald, rationalized keeping the death penalty based on the supposed danger that Black men posed to White women (Walker, 2010). Similarly, in 1911, Prime Minister Wilfred

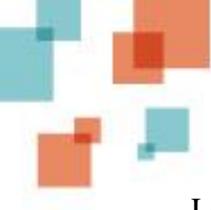


Laurier signed an Order in Council prohibiting Black immigration on the basis that Black people were deemed unfit for the “climate and requirements” of Canada (Shepard, 1997). As successive Canadian governments sought to restrict Black immigration, the small population of Black people already in the country experienced discrimination, including segregation (both legal and in practice) in education, employment, and housing (Henry & Tator, 2010). This history set the stage for the experiences of subsequent generations of Black Canadians, and more recent Black newcomers, by laying the foundations of anti-Black racism that persists to this day (Owusu-Bempah & Gabbidon, 2020).

Numerous taskforces and a growing body of research have shed light on the presence of anti-Black racism in Canada (Commission on Systemic Racism in the Ontario Criminal Justice System, 1995; James, 2010; Ontario Human Rights Commission, 2018; Canadian Heritage, 2019a; Nova Scotia, 2019; Wortley, 2019). This body of evidence shows that Black people fare poorly in key areas relevant to criminal justice, including child welfare, education and employment. As a result of structural inequities, for example, Black children are overrepresented in child welfare cases (Borden Colley, 2019; Ontario Association of Children’s Aid Societies, 2016). Because contact with child welfare systems increases the likelihood of criminal justice contact later in life, Black children are disproportionately affected by the association between the child welfare and criminal justice systems (Jonson-Reid & Barth, 2000; Owusu-Bempah, 2010).

Similarly, the relationship between poor educational outcomes and criminal justice contact is well established (Groot & van den Brink, 2010; Lochner & Morett, 2004). Research suggests that Black students in Canada also face multiple challenges within school systems that are ill equipped to meet their educational, emotional and developmental needs. Black students are more likely to be inappropriately streamed into non-university-track programs, to be subjected to unjust disciplinary practices, and to drop (or be pushed) out of school (Collins & Magnan, 2018; James, 2012; James & Turner, 2017; George, 2020). This is reflective of the phenomenon known as the school-to-prison pipeline, whereby institutionally driven academic underperformance, absence from school, and failure to graduate all increase the likelihood of criminal justice contact for Black youth (Maynard, 2017).

Educational barriers combined with structural and institutional forms of discrimination produce inequalities in Canada’s employment sector for Black people. Data from Canada’s 2016 Census show that unemployment rates for Black people were approximately twice those for the rest of the population (Do, 2020). This gap remained even when considering levels of education; among those with a postsecondary education, the unemployment rate for the Black population was much higher than that of the rest of the Canadian population (9.2% and 5.3%, respectively) (Do, 2020). Black people seeking jobs are disproportionately excluded from the labour market in part due to discrimination by employers (Henry & Ginzberg, 1985; Douthwright, 2017). Black people who are employed earn less than their peers, often due to systemic discrimination resulting in them occupying entry-level positions with limited room for career development. Census data for Canada show that in 2015, the median income for Black women was \$35,663 compared with \$39,654 for other women in the country. Similarly, the median income for Black men in Canada in 2015 was \$41,146, compared with \$55,801 for other men in the country (Do, 2020). These income disparities were consistent across major Canadian cities (Do, 2020).



Lower employment rates and incomes have resulted in greater poverty among the Black population in Canada. In 2016, Black people aged 25 to 59 were twice as likely to live in a low-income situation compared with the rest of the Canadian population in that age group (Do, 2020). Often times, poverty is geographically concentrated, meaning that Black people are overrepresented in disadvantaged neighbourhoods. These neighbourhoods are underserved by transit, libraries, schools, hospitals and other important services (Hulchanski, 2010; Walks & Borne, 2006). These are the very services that create strong communities and protect young people from resorting to crime, gang membership and violence (McMurtry & Curling 2008, p. 31). In the absence of these important social resources and in the face of increased poverty, crime and victimization rates remain high in these neighbourhoods. This results in more concentrated, enforcement-oriented styles of policing that further increase contact with the CJS (Hulchanski, 2010; Meng, 2017).

This brief account of the historical and contemporary experiences of Black people in Canada demonstrates that Black people continue to face inequities across a various social institutions. This, in turn, increases their level of contact with the CJS. Findings from the engagement process summarized in this report must be understood considering the historical and contemporary experiences of Black people in Canada.

3. Overview of the Engagement Process

In 2020, Justice Canada—in collaboration with the Federal Anti-Racism Secretariat at the Department of Canadian Heritage—undertook an engagement process aimed at better understanding the challenges facing Black youth who have been in contact with the CJS. This process supports the federal government’s broader efforts under Canada’s Anti-Racism Strategy to address access to justice issues. It is part of the Government of Canada’s commitment to the International Decade for People of African Descent, which has prioritized justice as one of three overarching pillars. This initiative also supports Justice Canada’s 2021 Mandate Letter commitment to address systemic discrimination and the overrepresentation of Black people in the CJS.

Focused engagement sessions and meetings were organized in six cities across the country with Black youth (aged 18-29) who have had experiences with the CJS as young persons (i.e., when they were 12 to 17 years old) under the *Youth Criminal Justice Act* (YCJA). Discussions were also held with family members and other key stakeholders such as community leaders and professionals who could speak to the experiences of Black youth who have come into contact with the CJS.

The objectives of this engagement process were to:

- Gain insights regarding the experiences of Black youth navigating through the various stages of the youth CJS (Annex A contains a document identifying these stages);
- Understand the circumstances that contribute to Black youth coming into contact with the youth CJS (i.e., social determinants of justice);

- Understand how anti-Black racism impacts how Black youth are treated by and within the CJS;
- Identify promising/innovative programs, services and approaches; and,
- Identify priorities for action and support by the federal government (e.g., legislation, funding, and research).

The approach taken for this engagement process was community-based. The work was led by community liaisons at each of the engagement sites (one per site in Calgary, Winnipeg, Ottawa, Montreal, Halifax, and two in Toronto, due to the size and diversity of Black communities). These community liaisons had lived experience as members of Black communities and were selected because they represented organizations with established relationships of trust with Black youth and their community. Community liaisons were responsible for determining the best approach to conduct the sessions and meetings based on their in-depth knowledge of their community and individual participants. A mix of one-on-one and group sessions were chosen for most sites. Because of the COVID-19 pandemic, the engagement sessions were conducted in a virtual format (i.e., by phone or videoconference).

The engagement sessions began in August 2020 and were completed by April 2021. The engagement questions and material were initially developed by Justice Canada and the Federal Anti-Racism Secretariat, based on findings from previous consultations conducted with Black youth in Canada. Community liaisons were consulted on these materials and adapted them to meet the needs of their participants. Efforts were made to include Black youth with diverse intersectional backgrounds and experiences, including immigrants, the children of immigrants born in Canada, and youth from established Black communities.¹ Youth in the community as well as those currently incarcerated in provincial facilities and federal institutions were included in the engagement. Table 1 provides details about the number of participants at each site.

Table 1. Description of participants across sites

	Youth (Male)	Youth (Female)	Families	Stakeholders	Total Participants
Calgary	7	1	8	19	35
Winnipeg	5	0	1	11	17
Toronto (1)	11	0	3	1	15
Toronto (2)	38	0	5	22	65
Ottawa	18	0	8	20	46
Montreal	9	1	4	19	33
Halifax	2	0	6	5	13
Total	90	2	35	97	224

Each of the community liaisons provided a site-specific summary that highlighted key findings and suggested priority areas for action from their sessions. This report summarizes the content of the seven site-specific summaries.

¹ Although all Black people share a common experience of racism, their specific challenges may differ based on their immigration status (i.e., immigrants, Canadian born from immigrant parents, or Canadian born from non-immigrant parents).



4. Limitations

This report is reflective of the experiences of Black youth across Canada but not exhaustive due to five main limitations. The Black youth included in the engagement sessions are between the ages of 18 and 29. The experiences of those currently 12 to 17 are not included because contacting these youth would require a court order. Since many of the Black youth participants also have experiences with the adult CJS, it is possible that some of their stories merge experiences they have had in the youth and adult systems without distinguishing. Moreover, gendered differences in factors contributing to interactions with the CJS could not be discussed because most of the youth participants were boys and men, with the exception of two Black female youth in Montreal and Calgary. Another limitation is that the engagement sessions described in this report stem from six cities in five provinces. Thus, the experiences of Black youth in other provinces and territories and in rural areas of Canada are not included. Lastly, the pandemic presented an important limitation as it had an impact on the level of participation in these engagement sessions. The move to virtual sessions deterred some participants from taking part in this process. Some youth were concerned about being identified through virtual involvement. Further, technical challenges such as limited access to internet and communications devices prevented some participants, often the most vulnerable, from being reached. Therefore, those voices are missing from this report.

5. Engagement Findings

5.1 Circumstances that Contribute to Black Youth Coming into Contact with the Youth Criminal Justice System

Stories shared by participants in the engagement sessions highlighted how Black youth come into contact with the youth CJS through a web of interrelated social factors. These pointed to the fact that, in practice, the CJS in Canada serves as an institution that *manages* a variety of social problems impacting Black youth, rather than as a mechanism to help guide and rehabilitate youth who have committed criminal offences. Instead of confronting the root causes of systemic societal issues, the CJS (and other systems) often individualized social problems. This places the responsibility for addressing them on the shoulders of Canadian-born and immigrant Black youth and their families. Discussions about circumstances that contribute to Black youth coming into contact with the youth CJS produced very similar findings across the different engagement sessions and cities. The stories shared pointed to a number of pathways to the CJS that occur in contexts of: 1) over-policing and 2) youth committing criminal offences as survival and identify. These pathways were overwhelmingly marked by experiences of anti-Black racism, poverty, and the absence of adequate services, as described below.



5.1.1 Over-policing

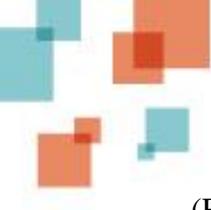
Over-policing in schools and the school-to-prison pipeline

Across the sites, participants identified schools as a key site where Black youth have their first contact with the CJS. The connection between schooling and the CJS is well documented and is often referred to as the school-to-prison pipeline (Henry & Tator, 2010; James, 2012; Maynard, 2017; Solomon & Palmer, 2004). Responses from participants reveal two distinct pathways to involvement in the CJS emerging from schools. The first stems from over-policing, which refers to an excessive or exaggerated response from law enforcement given the circumstances. The second stems from labelling and exclusion processes at school, which will be discussed in section 5.1.2.

Over-policing shapes the first contact with police at school through discriminatory and harsh practices, like zero-tolerance policies that treat Black youth differently in comparison to non-Black youth. These practices have led to a greater proportion of Black youth being suspended, expelled, or pushed out of schools (Collins & Magnan, 2018; James, 2012; James & Turner, 2017; George, 2020). Moreover, Black youth, their families, and stakeholders frequently shared that when mental health or behavioural issues arise involving Black youth, police are too often called on (or are already present on campus as school resource officers) to handle these situations. As a result, youth may be criminally sanctioned.

Participants noted that for Canadian-born Black youth, mental health issues can stem from poverty, domestic issues at home, and anti-Black racism in the classroom and wider society. Black youth who are newcomers to Canada may also experience mental health issues stemming from difficulties adapting to Canadian society, exclusion tied to having a mother tongue other than English or French, having an accent, migration-induced stress, or trauma from experiencing war or other threats to national security in their country of origin. When these mental health issues are not appropriately addressed, Black students may act out or show behavioural problems in schools. Participants shared that the high cost of most mental health services made accessing them nearly impossible. Some of the youth who were able to afford and access mental health services noted that their interactions with these services were marked by anti-Black stigma and stereotypes, making them unsafe spaces for Black youth. Other youth highlighted that they could not relate to mental health service providers because they lacked similar lived experience. Stakeholders also highlighted that compared to their non-Black counterparts who are referred to mental health services, Black youth are too often handled by the CJS instead of receiving supports that address their needs.

Participants indicated that newcomers experience bullying from students and teachers and are often not believed or taken seriously by school administration. Youth then take it upon themselves to address these problems, which may lead to verbal or physical altercations. For non-Black youth, these are often characterized as schoolyard fights or “boys being boys”, indicating that some level of fighting is normal and expected among youth. For Black youth, however, school resource officers are relied on to address the same kinds of behavioural issues and a simple fight may lead to assault charges. This differential treatment likely results from pervasive stereotypes of Black youth as angry, aggressive, violent, and prone to criminality



(Rogers & Way, 2016; Jerald et al., 2017). Participants noted that Black youth are too often perceived as dangerous because of their physical characteristics. For example, in Montreal, a Black mother shared that the school called the police on her 12-year-old son because he angrily lifted a desk. Despite claiming that he did not appear to be a threat to himself or anyone else, the school violated its own protocol of reaching out to parents first because the teacher perceived him as being “out of control.”

Finally, participants noted that Black youth may experience first contact with the CJS when they disclose tensions or domestic issues occurring at home to school officials. The majority of research and literature on parenting is grounded in Eurocentric parenting practices, which stereotype parenting styles from other cultures as inferior, authoritarian, or harmful. Thus, professionals, including educators, may misrecognize and mislabel parenting styles of Black parents as requiring intervention (Okpokiri, 2021). In these instances, child welfare agencies may be called on and youth may be removed from their home, significantly increasing their likelihood of ending up in the CJS. This issue is further discussed below in the context of police reliance on child welfare agencies.

Over-policing Black communities

Participants shared that Black youth experience anti-Black racism in the form of over-policing of their communities, which contributes to youth coming into contact with the CJS. Over-policing of Black communities occurs through: a) heavy police presence in economically marginalized neighbourhoods, racial profiling, discriminatory stop and search practices, and mobilizing municipal by-laws and other discretionary laws to differentially punish Black youth; b) police reliance on child welfare agencies; and, c) treating mental health issues within the CJS.

a. Heavy police presence in economically marginalized neighbourhoods, racial profiling, stop and search, and discretionary policing

The most commonly mentioned pathway to the CJS for Black youth across Canada stems from anti-Black racism in neighbourhood policing. Participants indicated that youth often experience first contact with the CJS because of the prevalence of police officers in their neighbourhoods. Certain neighbourhoods receive labels or designations such as “improvement areas,” “priority neighbourhoods,” or “at-risk neighbourhoods.” These tend to be marked by high levels of poverty, crime, and higher proportions of racialized/newcomer residents. As part of a strategy to reduce the level of crime in these neighbourhoods, law enforcement have adopted “proactive” or “preventative” policing, which results in these neighbourhoods being heavily monitored and patrolled. This strategy has harmful and inconsistent effects. One obvious consequence of a heavy police presence is differential enforcement. This occurs because low-level offences and normal rebellious teenage behaviour often go unnoticed by police outside of neighbourhoods deemed “at-risk”, but are addressed through policing within “at-risk” neighbourhoods. This leads to widely different life outcomes for Black youth, even when the same level of criminal offending is self-reported by non-Black youth (Hamilton et al., 2018; House of Commons, 2021; Ontario Human Rights Commission, 2019, Maynard, 2017). For example, a parent in Halifax shared:



“Kids, 13 and 14 years old, were coming home from the park, they walked on the lawn of a building, were playing on [the lawn]. Building occupants got nervous and thought they were trying to break in. Police came with guns out, said they were arresting them for home invasion.”

Racial profiling occurs when police target people on suspicion of a crime because of their perceived race, nationality, or religion rather than their behaviour. This policing practice can also occur when police are permitted to “stop and search,” “card,” or do “street checks.” Black youth frequently noted that beginning at about age eight or nine, they develop relationships with police in which they are powerless. This happens regardless of whether or not they have ever engaged in criminal behaviour. Police come to know them on a first-name basis and routinely interrupt their daily life through targeting. Research shows that Black youth are significantly more likely to experience this kind of policing than non-Black youth (Fitzgerald and Carrington, 2011). The engagement sessions confirmed that Black youth are forced to interact with police while doing mundane activities like walking around or hanging out in their neighbourhoods.

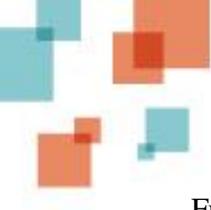
“I came into contact with police when I was walking late [at] night with my friends. We were just talking and walking when we were approached, tackled and handcuffed...They did not really give us any information on why we were being arrested. It was late at night and we weren't allowed to contact anybody while we were taken into custody.” (Youth in Ottawa)

Police discretion when enforcing laws and especially municipal by-laws, often leads to differential and harsher treatment for Black youth. For example, in Montreal, Black youth were frequently arrested for trivial behaviour like sitting on the back of a park bench. Youth interviewed also noted being wrongfully accused of crime when in the presence of other Black youth.

“The first time I got arrested I was 14 years of age. I got charged for possession of a firearm. I had been outside with a bunch of youth and someone called the police and said they'd seen someone with a gun. The police knocked on my door and charged me because I was with the group earlier. Everyone got arrested.” (Youth in Toronto)

These stories were reaffirmed by stakeholders who also observed that, in comparison to White youth, it was significantly more likely for a whole group of Black youth to be arrested when one person had committed a crime. Conversely, Black youth shared stories where they were singled out when in a mixed-race group of peers.

“Someone would say they smelled weed. They would ask me to unbuckle my pants and move my waistline. Or I would be with three people and I'm the only Black guy; the White guy speeding and me, the Black guy in the back. They would single me out and ask me questions. If there was a White girl in the car, they would ask her if she's okay.” (Youth in Toronto)



Further, participants across the country affirmed that police often look for a reason to penalize youth.

“Black kids in a bad neighbourhood are looked at as ‘criminal.’ Police try to find something to arrest them as they get older.” (Service provider in Toronto)

“As a young Black man, I experienced lots of racism issues, including being pulled over and harassed/searched for no reason whatsoever many times. An officer even went as far as saying one time ‘I’m going to do everything in my power now to throw you in jail.’” (Youth in Ottawa)

b. Police reliance on child welfare agencies

Participants shared that the police are overly reliant on child welfare agencies to deal with conflicts within Black families, whether they are minor or not. For example, a mother in Calgary called the police for assistance regarding one of her children and when they arrived, they decided that because she was perceived to be emotional, she was mentally unstable. They then called Child and Family Services (CFS), who removed two of her children from the home. The parent elaborated:

“CFS family services made things very difficult for me to manage at home... All I needed was support and they took my kids away.”

Stakeholders in Winnipeg and Toronto asserted that unnecessary involvement of child welfare agencies not only disrupts Black families, but also increases the likelihood that a youth will come into contact with the CJS. This has been referred to as the child-welfare-to-prison pipeline. Research has found that youth in the child welfare system are significantly less likely to graduate from high school (Public Safety Canada, 2012), more likely to end up the CJS (Turpel-Lafond, 2013; Finlay et al., 2019), and that the proportion of Black youth in the child welfare system is significantly greater than the proportion of Black youth in the population (Ontario Human Rights Commission, 2018b; Finlay et al., 2019). Moreover, research in Ontario has found that Black youth in the child welfare system are “over-criminalized” and receive more criminal charges and more severe criminal charges than their White counterparts. As compared to both White and Indigenous youth, they also receive more charges for administration of justice offences² while in group-home care for behaviour like running away, missing curfew, or conversing with a co-accused (Finlay et al., 2019, p. 29).

More research is needed due to missing data and a lack of efforts to systematically collect race-based data involving child welfare outcomes (OHRC, 2018b). The existing research and results from the engagement sessions demonstrate that over-policing Black youth to deal with family conflict leads to unnecessary involvement in the child welfare system, subsequently increasing their chances of involvement with the CJS.

² Administration of justice offences are a type of violation of the law that result in new criminal charges that are laid against people released on bail or probation who do not follow the conditions set out in their release order. These offences can include, for example, not complying with conditions of release, not appearing in court, and disobeying a court order.



c. Policing mental health

Participants discussed that Black youth, Canadian-born and immigrants, experiencing mental health issues in the community are generally dealt with by the police rather than the public health system. This is a problem because as a community worker in Winnipeg asserted:

“...police are especially inept to dealing with those problems.”

When first contact with the police stems from mental health issues, additional interaction with the CJS is likely. As one family member in Ottawa recounted, his relative suffers from schizophrenia, and over the past 10 years has been in and out of the CJS multiple times rather than being treated in a mental health institution. They stated:

“even though the police know he is mentally unstable, the police come and still take him to court.”

Mental health issues experienced by Black youth are not simply mishandled by police, but may also be caused by policing itself. This occurs when youth experience unnecessary and often aggressive police contacts, which result in trauma and stressful experiences. Black youth in Montreal highlighted that frequent interactions with police around their neighbourhoods made them feel like they were in prison.

These accounts demonstrate how the over-policing of Black youth stemming from racial bias leads to contact with the CJS and negatively shapes a number of factors contributing to involvement in the CJS, whether youth commit crime or not. Over-policing Black youth is only one example of anti-Black racism. Racism experienced by Black youth in other areas of society also contributes to criminal offending among Black youth.

5.1.2 Committing Criminal Offences: Survival and Identity

Many youth discussed that their first contact with the CJS occurred after committing a criminal offence; their stories further contextualized their actions as being part of a survival and/or identity strategy to address unmet needs. To claim that Black youth are solely responsible for their involvement with the CJS is to overlook the realities of their life circumstances and the enduring discrimination that has led to differential outcomes for Black communities. As detailed in the background section of this report, systemic racial discrimination results in Black people being more likely to live in poverty and be excluded from the labour market. These inequities in employment impact families and children directly. In 2015, the low-income rate for Black children was two and a half to three times higher than that observed for other children in Canada. This gap in the low-income rate is also present for Black children from second and third-generation families when compared to the rest of the population (Houle, 2020). This means that having unmet basic economic needs is an unescapable reality for many Black youth. Considering that these same youth are systemically excluded from the labour market, this may lead some to resort to unconventional means (i.e., commit crime) as a solution to meet financial needs (Owusu-Bempah et al., 2021). Stories shared by participants contextualized and illustrated why Black youth might choose to commit criminal offences as part of a survival and/or identity strategy. Four key recurring themes about why Black youth engage in crime are detailed below.



Poverty, environment, and intergenerational impacts

Black youth, their families, and service providers frequently reported that much of the crime Black youth engage in is poverty-related and that criminal activities like theft, fraud, and dealing drugs are how some youth meet basic financial needs. While more research is needed, there is evidence that Black people tend to be overrepresented in low-income neighbourhoods (Hulchanski, 2010).³ Research on Toronto neighbourhoods found that Black people are about 2.2 times more likely to live in a low-income neighbourhood than a middle-income neighbourhood and 4.3 times more likely to live in a low-income neighbourhood than a high-income neighbourhood (Hulchanski & Maaranen, 2018). Participants shared that living in a neighbourhood where low-income is concentrated means that there are a greater number of people experiencing labour market exclusion, less access to adequate government programs that offer financial help, and reduced access to recreational programs. Low-income concentration can also lead to a concentration of people committing crime as a way to make money. This can shape the visibility and knowledge about “street crime” in the neighbourhood, as well as the exposure youth have to others who engage in crime. A community worker in Winnipeg noted:

“The kids who have come here [to Canada] are sometimes failing at school and can’t find a job. If they can’t find a job, what is next? So if someone is offering them to do a, b, c, d, it is easy for them to get involved in that [crime].”

This quote highlights the significance of the barriers that Black youth experience alongside the “offer” to participate in crime from others in their neighbourhood. A youth in Toronto shared:

“I got involved with the youth justice system because I had financial needs. I had family that was gang-involved...and that’s what boys did where I come from.”

This demonstrates how criminal behaviour can become normalized for Black youth living in low-income neighbourhoods when their exposure to crime is high and financial needs are unmet. A service provider from Halifax also shared that:

“It is important to understand that contact with the youth CJS can be generational due to systemic barriers, like a lack of education and employment. This can be because it’s what they see coming from their family members and households.”

Families, friends, and other individuals using crime as a means to respond to poverty, barriers to the labour market, and inadequate governmental support may become models or an entry point into life trajectories where crime is a means of employment for Black youth. Enduring racial inequality can thus have the power to shape the environments that Black youth find themselves in and can also have an intergenerational impact that reproduces crime as a survival strategy within families.

³ According to Statistics Canada, a low-income neighbourhood is defined as one in which 30% or more of the individuals who live in the neighbourhood had an after-tax household income that falls below 50% of the median adjusted after-tax household income (Statistics Canada, 2011).



Poverty, discrimination, and impact on family dynamics

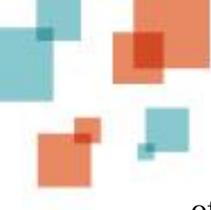
Participants indicated that the impact of systemic discrimination on family dynamics is also relevant to understanding the involvement of Black youth in criminal activities. This section addresses how discrimination in the labour market leading to poverty and the over-criminalization of Black men impacts Black families in two important ways that may encourage Black youth to engage in crime.

First, the over-criminalization of Black men, among other factors, leads to a higher proportion of single parent Black families. Black youth, their families, and service providers all shared that for both Canadian-born and immigrants, there are a significant number of Black youth without a father in the home. Data from Statistics Canada support this; in 2016, 27.4 % of Black women (25-59) were lone parents as compared to 10.6% of women from the rest of the population in Canada (Houle, 2020).

Single headed households have important consequences for Black families and youth. Having a lone parent who is economically marginalized may increase the time children spend alone. Single mothers must take on the responsibility of being breadwinners for the family while also parenting alone. Due to discrimination in the labour market, which often leaves them occupying low-paying jobs, single mothers often have multiple jobs or are outside of the home for long hours. Stakeholders highlighted how these challenges are at times even greater for mothers who are newcomers because they have to work or search for work, learn English, and integrate into Canadian society, all of which also requires time spent out of the home and away from their children.

“Often when youth come here [Canada], they often are at a disadvantage. They come with single parents and it is often the mom who is with the kids, say seven kids that mom has to contend with, her traditional role back in Africa has to change ... She is learning a different role. Because of learning a new role, it is hard to do that [raise kids]. They also have jobs and are living far from their traditional setting where they have extended family members.” (Community worker in Winnipeg)

Among Black newcomers and refugees to Canada, additional disadvantages like language barriers, anti-immigrant and anti-refugee sentiment, and xenophobia have been noted by participants as posing a barrier to financial security and successful settlement. Research has found that Black immigrants born in Africa seeking work were expected to have Canadian accents, Canadian education, and Canadian experience even when they were granted immigration status precisely because of their high level of education and skills. This means that many Black immigrants are overqualified for the jobs they are able to get and may take on “survival employment” to make ends meet (Creese & Wiebe, 2012). As the quote above illustrates, single mothers also have to grapple with the loss of community support and extended family networks that would assist with childcare. These conditions combine with a lack of programs, services, and opportunities for Black youth and their parents. Children may then spend more of their time engaging in informal, unstructured, and unsupervised activities on the streets



of their communities as compared to economically secure youth who tend to spend more of their time in formal, structured, and supervised activities (Lareau, 2003). A youth in Toronto shared:

“I came in contact with the youth criminal justice system because I was bored. I had idle hands. I looked up to the older kids, I followed friends and wanted things to fit in like Jordan sneakers.”

Time spent on the streets without a structured routine and without being supervised by parents or other adults increases the likelihood that youth will see and come into contact with others who are engaging in crime. This is when criminal offences are more likely to happen.

Second, participants shared that systemic discrimination leading to the absence of Black fathers from the household further disadvantaged Black youth due to the lack of a positive male role model in the home. For example, one of the sites in Toronto reported that of the 25 incarcerated Black youth that they engaged with, 24 of them spoke about how the absence of a close relationship (or any relationship) with their fathers and other male role models made it easier to conform to pressure from criminally-engaged peers. Many of the young male participants also reported feeling compelled to take on the responsibilities and duties of their absent fathers. This included committing financially motivated crime to make money for the household, alongside assisting with parenting.

“We came as a family, but when we were in Canada, you lose that family content. That family feeling. Everything is different. There are some days where I barely see my mom. She’s always working so hard. She is working night shifts. That leaves a lot of children vulnerable. You don’t have that role model because your mom is tryna make that money to survive and even the money they are making is minimum wage. We have barriers. We don’t speak the language. We tryna belong... ‘I’m here, I’m tryna survive. I’m tryna have a house for my kids to grow in and be successful.’ But at the same time, ‘who is watching over my kid’... Let me go and do my own thing and try and help my mom. They don’t realize it, but they do it [commit crime] to make their mom proud.” (Youth in Winnipeg)

Here, crime serves as a direct route to contact with the CJS for Black youth, especially young Black men when they take on financial responsibilities while being excluded from the labour market and legal opportunities to earn an income. This can push youth to crime as a means to make money. This can also lead to the development of unhealthy habits grounded in a criminal lifestyle (Anderson, 1999). Black male youth stepping into roles where they seek to make money to support their families may experience difficulties expressing emotions, de-prioritize their needs in favour of the needs of others, and feel disappointed by the gap between normative concepts of masculinity as breadwinners and the reality of discrimination from the labour market. This may lead to mental health issues.

“... We come here thinking we will be accepted, go to school, graduate, and find a better job. But no, at the end of the day even if you study hard, you still have that discrimination that will set you back. It makes you think you are just worthless.” (Youth in Winnipeg)



Participants also reported that young Black boys and men involved in crime to make money, especially drug-dealing, may need to use violence to appear tough and to protect themselves from rivals that may want to use violence against them. Participants shared that youth may join gangs for protection from rivals. Additionally, for youth with both their mother and father outside of the household, gaining membership in a gang may fulfil the need for love, acceptance, and a second family. This also contributes to involvement in the CJS as found in other research (Anderson, 1999; Ludwig & Kling, 2007; Wortley & Tanner, 2008).

Put simply, poverty, labour market exclusion, and over-criminalization combine to significantly disadvantage Black families in ways that can drive Black youth to engage in crime. Using a criminal justice response as a strategy to address this crime, rather than addressing its root causes, further marginalizes Black families and creates a cyclical relationship to crime and the CJS.

The school-to-prison pipeline

Contact with the CJS also stems from criminalization by authorities at school and by police. In addition to over-policing schools, a second pathway on the school-to-prison pipeline occurs through negative labelling and discriminatory treatment, which lead to exclusion. This exclusion can occur when youth are treated as unwanted outsiders in school. In one instance reported in Montreal, a school counsellor told a Black youth they would “amount to nothing.” Black youth, their families, and stakeholders at a site in Toronto also reported students feeling “singled out,” judged, subject to negative treatment, and met with a general feeling of rejection from some teachers that was noticeably different than what their non-Black peers experienced.

Exclusion also operates through attempts to correct racial disparities in academic achievement. For example, stakeholders in Halifax shared that the Halifax Regional Centre for Education (HRCE) developed Individualized Program Plans (IPPs) to assist students who are having academic difficulties. In theory, these plans are intended to serve as a “scaffolding” and to provide the supports and resources needed to help bring the student up to grade level. Students on the program are supposed to be re-evaluated each year to assess the need to continue on the IPP. However, it was noted by participants that Black youth appear to be less likely than non-Black students to receive annual re-evaluations, presumably due to low-expectations stemming from racial bias. As a consequence, a relatively higher proportion of Black youth end up graduating from high school on the IPP. This is problematic because graduating while on an IPP is not recognized as having the same value as a standard high school diploma. Moreover, students enrolled in IPPs and other alternative programs may experience a decline in self-esteem. A service provider in Halifax shared that:

“Placing our youth on IPPs –teachers can put [youth on] IPP’s without [the consent of] the parents– sets them up for failure... The institution of the school system is not set up for our Black students and it affects their self-esteem and achievement.”



Service providers in Montreal asserted that race-based discrimination at school and sorting students based on perceived academic ability amount to social exclusion, make Black youth feel limited and confined, lower aspirations or “fields of possibilities,” and encourage students to fulfil stereotypes rather than tackle them. Moreover, schooling practices like IPPs and other alternative education programs that lead to lower graduation rates or high school diplomas that are less valuable, place Black youth at an even greater disadvantage with respect to employability. These practices essentially direct Black youth towards lower socioeconomic outcomes. Combined with racial barriers in schooling, racial barriers in the labour market also contribute to higher rates of underemployment and unemployment among Black people as compared to White people, even with the same credentials and levels of experience (Picot & Hou, 2011). These barriers may lead youth to earn income outside of the legal market.

Labelling, negative self-concept, criminalization, and cultures of mistrust

Youth, family members, and service providers across Canada highlighted that being labelled or treated like a criminal, thug, or gangster can be internalized by Black youth. This negatively impacts their self-concepts and may result in a self-fulfilling prophecy. As a consequence of over-policing, it was frequently reported that there is a persistent culture of mistrust between police and Black people living in high-crime neighbourhoods. This mistrust is learned from family and friends, by witnessing the police treat other community members unfairly, and from personal experience. Participants illustrated that this mistrust leads to efforts to avoid police and shapes how Black youth learn to deal with the police. A father who is also a service provider in Halifax said:

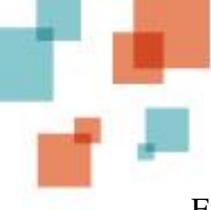
“...The moment our kids are born, we got to think about how to answer to police, how to keep their hands in plain sight. And you [police] wonder why we get so upset when you handle our kids the wrong way. He’s already a criminal before he is born.”

Participants also suggested that this type of criminalization leaves Black youth feeling like they are not in control of their own lives and that their life course and outcomes are often predetermined. This approach to policing creates the sense that there is no reason *not* to become involved in crime, as explained by two youth:

“I was a criminal before I was a criminal so I thought I might as well be one if I’m being blamed for being one anyways.” (Youth in Toronto)

“The first time, I was arrested and charged with a crime I was not guilty of at 14 years old. This made me lose faith in the system and it felt like it was built to work against me. This followed me later in my life [when] I was charged. I believe if I did not come in contact with the justice system that young, I would not have been in this situation. Race played a huge factor here because I was racially profiled because of a jersey.” (Youth in Ottawa)

For Black youth who are not criminally engaged, negative experiences with the police can serve as a driver of later criminal behaviour (see Del Toro et al., 2019; McGlynn-Wright et al., 2020).



Evidence suggests that Black youth who experience police stops at a young age are more likely to engage in criminal behaviour later in life than Black youth who do not experience early police contact (with all other factors being equal) (Del Toro et al., 2019). This increased likelihood of offending may result from the internalization of stereotypes associating Blackness with criminality (Unnever & Gabbidon, 2011), and the feelings of hopelessness, depression, defiance and anger that result from unjust treatment at the hands of the police (Unnever, 2014). In other words, racial profiling and over-policing can increase criminal offending among Black youth rather than prevent it. This may be particularly likely in areas with low-income concentration, which tend to have higher levels of crime and be over-policed.

This relationship between higher levels of crime and over-policing is important because areas of low-income concentration also tend to be characterized by increased risk of victimization (Taylor-Butts, 2004). As a service provider in Toronto noted:

“The environment impacts youth. Even if a youth is not involved in neighborhood politics, he can get killed just for walking home from school.”

Despite risks of victimization and the reality of over-policing, another negative experience with police cited by participants was that police do not assist Black youth when they are victims of crime. This phenomenon is known as “under-policing” and takes place when there is an inadequate response from law enforcement to victimization or potential victimization for reasons tied to the group the person comes from (Ontario Human Rights Commission, 2019). In Calgary, a female youth described a situation where she and her brothers were told to leave a convenience store by its owner because “their kind is not allowed.” When the police arrived, they supported the owner and asked the youth to leave. A parent in Halifax stated:

“When you need help, why would you call 911 if the police have never been there to help you.”

Stakeholders in Toronto noted that even Black youth who are the victims of crime view police as “the enemy” because of their reluctance to properly assist people requesting help from law enforcement. Community workers across Canada highlighted that without the ability to rely on police, and given the prevalence of gangs and gun violence, youth who are otherwise not criminally-involved carry weapons for protection. However, because of heavy police presence and a high likelihood of being stopped, these youth may receive criminal charges for possession of a weapon, thus marking the beginning of a trajectory in the CJS.

5.2 Experiences Navigating through the Criminal Justice System

Across engagement sites, there was consensus among Black youth (both incarcerated and in the community), their families, and stakeholders that anti-Black racism led to overwhelmingly negative and discriminatory experiences when navigating through the CJS. This was true of their experiences with police, within the courts, with legal representation, in custodial facilities, and during probation and parole or following release from prison.



Policing

The stories and testimonies presented above on over-policing established that Black youth have to deal with a heavy police presence in their neighbourhoods, with racial profiling, discriminatory stop and search practices, and the differential application of police discretion, all of which contributes to the criminalization of Black youth. Black youth can be targeted for speaking a language other than English or French, their clothing, gathering in groups, or their geographic location. Constantly being policed leads to youth feeling like intruders in their own communities and many described experiencing constant fear of interactions with police and the fear that police interactions could result in death. Youth also fear how information that police collect on them may be used and are troubled by how rarely police ask them questions aimed at better understanding the communities they serve. As noted, Black youth also reported being under-policed when they are the victims of crime at the same time that they are over-policed. This creates a sense of mistrust in the police and lowers confidence in the ability of the police to maintain safe communities.

Black youth's experiences with the police are also characterized by abuses of power, dehumanization, and police brutality. Abuses of power take many forms in interactions with police. A common finding highlighted by participants is that police arrest Black youth without justification and when youth ask why they are being arrested, they are often told they will find out "when they get to jail." A youth in Ottawa shared:

"I was sitting in a parked car in a parking lot at a building when I noticed a gun in my face through the window. I thought I was about to get robbed. A guy in plain clothes pointing a gun in my face was screaming at me to get out of the car. Another plain clothes officer grabbed me and pulled me out of the window. I was thrown around and then had my head slammed on the hood of the car before finally being arrested. Up until that point I had no idea what was going on."

Participants believe that the police also abuse their power by dehumanizing Black youth. Youth in Calgary reported being called "Black criminals" and "thugs" by police officers. In Montreal, youth talked about being made to feel like objects or animals, and one youth reported being forced to eat snow during a police interaction. Anti-Black racism that takes these forms serves no benefit to effective policing, while having a severe impact on the well-being of Black youth.

Black youth are also subject to excessive use of force and police brutality. This was reported across each city, many times. Examples of excessive use of force include acts like purposefully putting on shackles too tight or tackling or throwing compliant youth on the ground. A youth in Calgary indicated his wrist broke when police tackled him into a coffee table in the family home. In Montreal, a stakeholder shared that a Black female youth:

"...recounted a traumatic episode in which she was the only youth arrested for a crime committed jointly with a White friend, for which the friend experienced no repercussions. The youth explained that after being stopped and handcuffed to enter the police vehicle, the officer took the opportunity to hit her head on the door, which dislocated her jaw. She reports experiencing physical pain and the



incident having had an impact on her ability to express herself verbally for several weeks.”

Youth also experienced being pepper sprayed and beaten, even after being taken into police custody. A Toronto youth reported:

“They would beat me in the police station until they found out how old I was and when they found out they would say, ‘Holy s**t we gotta let him go.’ So, they would let me go, no charges. I never complained or sued because I was doing little criminal stuff and I would end up getting off without being charged, and I just wanted to be let go.”

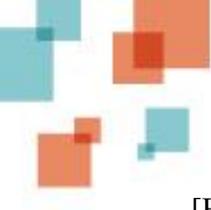
Youth shared that this treatment was a “one-way road” of unescapable involvement with the CJS, where one instance of being stopped leads to repeated instances where they are assumed to be committing crime. Stakeholders in Calgary reported knowing Black youth who wished to become police officers, but that racist treatment by police made them change their mind. Thus, poor treatment of Black youth by police can subsequently impact diversity in policing in unseen ways.

Courts

While a few youth noted being sentenced by judges that they felt were compassionate or lenient, this was the exception. The majority of Black youth felt they were presumed guilty until proven innocent in court proceedings. Lawyers, community workers, and youth reported that compared to White youth, Black youth receive longer sentences, more conditions, less custodial diversions, fewer diversions to mental health programs, and are more likely to be denied bail pre-trial. A lawyer in Calgary asserted:

“I have to work twice as hard with a young person of colour as a client and that’s because I first have to erase that stigma and then build a positive profile for my client so that the judge can give a positive sentence.”

Although race-based data on sentencing is limited (Owusu-Bempah et al., 2021), professionals and community leaders highlighted that anti-Black racism in the courts manifests in a generally tougher approach to dealing with Black youth. Other Canadian research also supports this finding and demonstrates that the conviction rate for Black people is 3.2 times higher than it is for White people (Wortley & Jung, 2020). Interestingly, Wortley and Jung (2020) also found that in Toronto Black people are overrepresented in withdrawn charges, dismissals, and acquittals; Black people encountered each of these outcomes at a higher rate than White people (p. 96). Withdrawals, dismissals, and acquittals occur when there is insufficient evidence or information for the case to go to trial or to find the accused person guilty of an offence. This finding highlights the fact that racial bias in law enforcement leads to Black people being charged with offences when they likely should not have been, due to lack of evidence for instance. This results in many Black people being in the court system unnecessarily. When reflecting on experiences in court, participants shared that White youth are more frequently perceived to have made a mistake and thus receive leniency. In Montreal, stakeholders noted this was part of a strategy to “show



[Black youth] how the world works” and make sure they respect authority. Differential treatment by the courts is particularly noticeable when Black and White youth are sentenced for the same case. A Toronto youth described the following experience:

“I experienced racism with sentencing. Me and my friend were on trial for the same charge and the call was on him but I got a higher sentence. I got 90 days plus two years of probation. My White friend got 30 days plus one-year probation, same judge.”

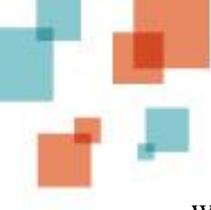
These different outcomes negatively impact the life trajectories of Black youth. This is in addition to the experience of being in court, which can itself be traumatic and dehumanizing. Youth described the frustration of being called a “Black male,” “criminal,” or “thug” rather than being referred to by their names by courtroom staff. Black family members may also be the subject of degradation in court because of criminalization stemming from racial bias, having a limited understanding of English or French, or having an accent. A service provider in Toronto indicated that:

“Parents who are newcomers and do not speak well are made fun of when on the stand for bail. Many times, the youth and family are looked down on and denied bail.”

Youth and service providers alike also felt that the overrepresentation of White judges, prosecutors, lawyers, and juries in courts significantly diminished the likelihood that the backgrounds, environments, and obstacles faced by Black youth would be considered during decision-making. This is a significant issue considering that, as outlined above, Black youth are subject to racial bias across the CJS, as well as in other social spheres (e.g., education, labour market). Systemic racism increases the likeliness of Black youth coming into contact with the CJS in the first place, even when youth have not committed a criminal offense. These first biased contacts then shape the legal outcomes for Black youth if they have subsequent contacts with the CJS, by justifying continued racial bias and harsher treatment (e.g., less diversion, additional conditions, and longer sentences). In other words, the impacts of racial bias can become layered and have a domino effect in which the outcomes of racial bias experienced in childhood and youth are used to justify harsher subsequent criminalization.

Legal representation

Some of the lawyers involved in the engagement sessions noted fiercely advocating for their young Black clients and a few youth noted having lawyers that were particularly invested in seeking the best outcomes for them. Nevertheless, most youth, families, and stakeholders interviewed suggested that a key issue impacting Black youth in the CJS is that they cannot afford high-quality legal representation and must rely on legal aid funded lawyers. When using legal aid, Black youth encounter lawyers with heavy caseloads who often do not explain what is happening or how court proceedings will work. This makes the experience even more intimidating. Furthermore, participants felt that legal aid lawyers lack care, seem disinterested in listening to youth or seeking good outcomes for their clients, and appear to simply want to move on to the next case. Another common occurrence across Black youth’s experiences with lawyers



was that they were encouraged to plead guilty even if they were innocent or the case involved their first offence. A youth from Toronto explains:

“Legal aid lawyers don’t put in the same work effort as paid lawyers. Because of my family’s lack of finances, we couldn’t pay a lawyer, and because of that my lawyer convinced me to take a plea deal.”

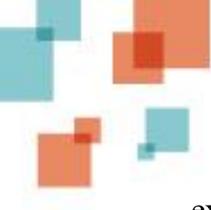
As evidenced above, there was a widespread understanding among respondents from across engagement sites that anti-Black racism intersects with poverty and other forms of marginalization to produce particularly negative experiences for Black youth in court. These forms of marginalization compound and Black youth are continually punished for their financial circumstances and limited access to needed resources, such as lawyers who seek proportionate and just outcomes. The result of this is that Black youth are not only treated unfairly by a variety of court actors, but they are also subject to longer and harsher sentences, which have long-lasting negative consequences on their lives.

Custody

The engagement sessions revealed that Black youth had some positive experiences while in custody at youth facilities. However, most of their experiences in both youth and adult facilities were negative in the form of dehumanization, violence, neglect, and labelling, as described below.

As compared to the other stages in the CJS, a greater number of Black youth reported having some positive experiences in youth custody facilities. Some described youth detention centres as “being like camp”; others pointed to receiving fair treatment by correctional officers, observed no differences in treatment stemming from racial bias, and felt correctional officers were supportive. One youth even requested to stay in custody longer than required to complete their schooling, which may be a reflection of the poor access to services in the community rather than positive treatment in custody. Additionally, facilities where correctional officers, case managers, and school staff were racially and ethnically diverse were more positively experienced. Black youth in these facilities reported feeling cared about and advocated for because an effort was made to “understand the struggle.”

Nevertheless, most participants recounted negative experiences in both youth and adult custody facilities, often linked to their Black identity. Black youth entering youth facilities were shocked by the high number of Black and Indigenous youth, the small number of White youth, and the primarily White staff. One type of mistreatment reported in youth facilities involved correctional officers dehumanizing Black youth. This took many forms. Youth reported that officers would purposefully put shackles on too tightly and would laugh at them when they asked for them to be loosened. A parent reported her son was made to stay naked all night in the cold because he had fought with another youth. Other Black youth reported officers behaving in antagonistic ways, simply because they can. For example, a youth in Calgary shared that correctional officers would provoke him and remove privileges when he reacted. This youth noted seeing officers target and harass other Black youth in the facility by waking them up at all hours of the night for no apparent reason. Black youth also shared that non-Black youth and staff members would make



explicitly racist comments like calling them “n**gers” or stating that “Black lives don’t matter.” This treatment was seen to be more severe when officers worked with both adults and youth. A Toronto youth shared:

“Guards worked on both [adult and youth] sides, they were used to treating people inhumanely.”

Black youth also reported experiencing violence and physical abuse from both other youth and custodial staff. In fact, officers in adult facilities were reported to involve themselves in the politics of those in custody by spreading dangerous rumours about the youth and their crimes, and pitting them against one another by encouraging them to fight and beat each other up. Officers also went out of their way to damage personal property like religious texts or pictures from home. For example, a youth in Calgary shared that after being moved to an adult facility, a staff member stepped on his Quran and when he reacted angrily, they took him to the showers where there are no cameras, handcuffed him to a pipe, and proceeded to beat him. Participants also shared that experiencing violence while in custody often increases their chances of reoffending. In other words, custody itself leads to crime. For example, a youth in Toronto shared:

“The COs [correctional officers] put me in segregation, hog tied me and wet me up with a hose. I was left in my boxers. That s**t makes you say f**k the system. Why would you want to be a part of society when that’s how you’re treated? I came out on beast mode!”

As this youth illuminated, experiencing violence from actors in the criminal justice system leads to feelings of exclusion, anger, animosity, and that they are not viewed as worthy of just treatment from authority figures. These feelings then serve to justify engaging in crime upon release. On top of race-based barriers in the labour market and barriers stemming from having a criminal record, Black youth who experienced violence in custody may reject conventional lifestyles and turn to crime to cope with experiences lived while in custody (Listwan, Sullivan, Agnew, Cullen, Colvin, 2013).

Further, participants in youth and adult facilities shared that they commonly experienced neglect while in custody. Black youth described having their mental and physical health issues ignored, spending months in solitary confinement where they are isolated for 23 hours a day, and starving when their canteens were empty. Moreover, Black youth described that staff often looked the other way when they were being treated poorly by other people in custody. Stakeholders argued that when officers fail to intervene, this results in youth adopting anti-social behaviours to survive in custody. This mirrors how under-policing in community contexts forces youth to adopt criminal behaviours to stay safe. The neglect and physical and mental violence that Black youth experience while in custodial settings result in some youth leaving with worse behavioural tendencies than before they entered.

The few Black staff members who seek to offer support to Black youth may be targeted by their colleagues. A service provider in Toronto conveyed that:



“There was a Black officer at the... Centre who was targeted, tires slashed, food poisoned, and forced to leave by White officers because he noticed a Black youth had mental illness and tried to advocate to officers...”

Stakeholders and Black youth spoke of youth detention as a missed opportunity for successful rehabilitation. They pointed to the lack of communication between institutions that youth are transferred to, which hinders assessment of trauma, learning difficulties, family issues, and additional needs. As a Toronto youth notes:

“The youth justice system is a big waste of resources. No culturally-appropriate programs, poor treatment in detention. Poorly designed plans, lacking execution. No one wanted to deal with the root cause.”

The absence of appropriate rehabilitative programming means that youth are leaving institutions and expected not to reoffend without receiving the interventions needed to reduce their chances of reoffending.

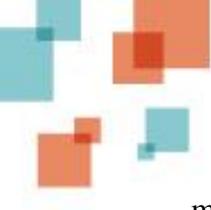
Another shortcoming reported was the lack of preparation for the transition from a youth facility to adult custody; the latter was described by a youth in Montreal to be more “heavy and severe.” A youth in Toronto shared:

“It feels like a setup. It feels like you have support inside but when you leave and go to adult jail at 18, still a youth, all the supports are gone, and you are left as a youth in need of supports in an adult jail. I went to adult jail. There is a huge difference in how you’re treated in adult jail versus [being a] young offender.”

Finally, Black youth are also more likely to experience labelling which negatively impacts their experience during custody and after release. As a consequence of anti-Black racism, it was reported that Black youth across Canada are more likely to be incorrectly labelled as gang members. This labelling is particularly problematic for youth 18 years or older who enter the adult correctional system. The Correctional Service of Canada assigns the “Security Threat Group” (STG) label to offenders who are believed to be in gangs. It is difficult to remove this label once assigned. While incarcerated, this label can impact an offender’s security classification, employment opportunities, amount of pay for work, range placement, and institutional privileges. Notably, research has found that denying access to these services while in custody can actually lead to prison misconduct among those in custody (Blevins, Listwan, Jonson, & Cullen, 2010). Following release, young Black adults may be denied services that assist in reintegration if they have an STG label, including programs for: drug addiction, domestic violence, sex abuse, and entry into halfway houses. Furthermore, parole officers were reported to be less supportive of young Black adults with the STG label.

Probation and release from custody

Some Black youth reported feeling that their probation or parole officer fully supported them and significantly impacted their lives by helping them find employment and community support. This was particularly true if they shared a racial or ethnic background or lived experience, which



made them relatable to youth. However, this is not the experience of most Black youth. For example, there was near unanimous consensus among stakeholders in Montreal that during periods of probation, parole, or release after serving a full sentence, probation or parole officers are there to “carry out measures, increase surveillance, and issue penalties.” These measures claim to lower the likelihood of reoffending, but they actually operate as extensions of the custodial system in the community. Black youth agreed:

“The probation system is slightly more flexible than expected, but it constantly seemed like they were only focused on catching me making a mistake and did not really care about my rehabilitation.” (Youth in Calgary)

Stakeholders, Black youth, and their families reported that Black youth often obtain contradictory probation/release conditions that set them up to fail. For example, a youth in Calgary noted that one of their conditions was to attend anger management. However, the sessions were scheduled during school hours forcing them to skip class in order to take the training or risk receiving a breach of conditions and going to jail. Yet, skipping school was also interpreted as contradictory to rehabilitation. Similarly, a youth in Toronto, who also had to attend anger management twice a week noted that because he was innocent, this training was a waste of his time. He added that because the training was not in the city where he lived, he had to travel 5 hours by bus to attend, which meant he might accidentally breach his conditions by missing curfew. He eventually had to move to be nearer to the program. Other contradictions in release conditions required youth to have no contact with criminal associates. This was difficult for youth because, as previously stated, many Black youth who end up in the CJS come from neighbourhoods with high levels of crime or have family members who have themselves come into contact with the CJS.

Stakeholders, Black youth, and their families also reported challenges linked to a low awareness of existing services and a lack of culturally-relevant or effective programs. Black youth on probation or parole as well as those having served full sentences often experienced homelessness and a loss of family support following release. This can occur because their conditions prohibit them from living where they got into trouble or their families no longer want them living there. Without effective interventions and services, youth then have to “fend for themselves” and are caught in a dilemma where they cannot find a job because they have no permanent address, while also not being able to find housing because they do not have a stable job or income. In addition to discrimination in the labour market, Black youth with criminal records experience lower employability, and tend to leave custodial institutions without skills, training, or education to increase their employability. Therefore, Black youth often end up doing whatever they can (i.e., “hustling”) to make the money needed to survive.

“I’m a 6-foot Black dude, I’m already seen as intimidating and now with an assault charge slapped on me. I know that if I were a White-passing dude, I would not be treated the same way. My house was being watched by police all the time. I was sneaking out because I needed to make money. Who is going to hire you when you’re Black with a record. They also did not care about the fact that I was struggling with a mental health condition. My probation officer seemed to think that I am exaggerating my feelings and emotions.” (Youth in Ottawa)



Another issue raised by participants was that, in addition to a lack of culturally-relevant programming that addresses the needs of Black youth, some parole and probation officers did not take the time to identify and connect youth with the few culturally-relevant programs that do exist. Rather than showing compassion and empathy and providing advice on how to stay out of trouble, Black youth were frequently asked “did you screw up this weekend?” Without connections to effective programming, youth lack the assistance and support they need to reintegrate, such as obtaining identification cards, mental health and drug counselling, or assistance to exit gangs.

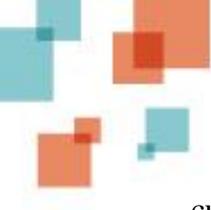
Many service providers across engagement sites raised the issue of government funding. They were frustrated that funding often goes to the same large organizations, like the John Howard Society. Although these organizations provide good services, participants argued that they do not tailor these services to the specific needs of Black youth. Service providers thought funding should also go to culturally-relevant programming led by front-line workers who can relate to Black youth through shared race or lived experience, as well as grassroots organizations tasked by people who are familiar with the youth and the neighbourhoods they live in.

In summary, the CJS operates as a revolving door where Black youth are repeatedly cycled through the system. Following release, Black youth are often worse off than they were when they were first in custody, and have to deal with the negative stigma associated with having a criminal record. This is a consequence of anti-Black racism, which generates a lack of resources as well as an unwillingness to address the failings of the system and provide structural supports to change the conditions that lead the youth to offend in the first place.

Impacts of COVID-19

The COVID-19 pandemic has had differing impacts on youth depending on their experience with custody and their custodial status at the time that engagement sessions were conducted. Youth who had never been in custody reported that the pandemic made them feel like they were in prison because police surveillance seemed to increase in their community. In addition to dealing with anti-Black racism as described in this report, these youth reported suffering from stress about contracting COVID-19 in their jobs as essential workers, the loss of jobs and the closure of community services and programming they relied on. These changes made youth feel isolated and lonely, resulting in a decline in their mental health. Some youth also reported their mental health worsening as a result of increases in domestic violence, sexual abuse, and addictions issues at home. Moreover, the higher population density in the neighbourhoods in which Black youth tend to live increased their risks of contracting the virus. These fears were worsened by neighbourhood police who refused to adhere to public health protocols (e.g., social distancing, wearing masks, and using sanitation measures), while also penalizing community youth when they violated these same protocols.

Similar to youth in the community, Black youth in youth detention/custody and adult correctional facilities voiced concerns about getting COVID-19 from overcrowding in confined spaces. They experienced the contradiction of receiving penalties for violating public health protocols that correctional officers were themselves violating. Black youth currently in adult



custodial institutions noted that correctional officers do not always show up for work, which increases lockdowns and decreases access to family and friends through phone calls and visitation. This resulted in restricted access to their support system, increased physical altercations and fights for the phone, as well as worsened mental states tied to lockdown measures to deal with the spread of the virus. Stakeholders reported an increase in anxiety, depression, and isolation among Black youth in custody, while noting that these youth also had less access to institutional services and facilities like educational services, mental and physical health services, the gym and showers. Many Black youth who tested negative for the virus were housed with those who tested positive. This was reaffirmed by those who tested positive and who noted experiencing anxiety-inducing guilt about passing it on to others.

Stakeholders asserted that irrespective of race or cultural background, youth experienced longer than normal delays for bail hearings, trial, and transfers, which also increased mental health concerns. However, stakeholders clarified that they noticed that compared to White youth, Black youth have had considerably longer delays. The temporary closure of volunteer opportunities required as part of probation means that some youth are serving longer sentences in custody. Stakeholders and youth shared that Black youth who were previously in custody and released into the community during the pandemic suffered from limited employment opportunities and struggled with barriers to online learning and attending virtual hearings, services, and programs obligated by the courts. Some youth reported being able to stay out of trouble because they had more time to focus on their progress and less opportunities to reoffend.

6. Priority Areas for Action and Promising Programs, Services, and Approaches

This section outlines the priority areas for action and promising programs, services and approaches that were identified through the engagement process.

Addressing low-income concentration, survival-motivated crime, and community prevention

Findings from this engagement process demonstrated how the interconnectedness of poverty and anti-Black racism shapes the lives of Black youth and significantly impacts the likelihood that they end up in the CJS. Preventative action should be taken to address poverty directly and mitigate the impact of poverty on Black youth's likelihood of offending. This action should pay particular attention to the needs of newcomers and Black youth facing mental health difficulties. The following are proposed ways to achieve this:

- Increase funding to financially assist economically marginalized Black families with living costs.
- Increase funding for childcare, including in-home respite care, among Black families and single parents.
- Identify long-term employment opportunities for Black parents and Black youth living in poverty, provide training for skills that are tailored to gaps in the labour market. A clear pathway from training to job opportunities should be established. This should be available to Canadian-born and newcomer Black parents. These should be run by Black-led community organizations or in partnership with organizations of this nature.

- Provide post-secondary education funding for Black youth.
- Cease the development of social housing projects that create low-income concentration by design. Government-assisted housing should be dispersed across neighbourhoods that vary by economic class.
- Provide stable funding for community organizations that are Black-led and culturally-appropriate that assist with important services such as: behavioural management, mental health, drug prevention/addiction services, after-school recreational programs, community-oriented mentorship, early crime intervention programs, homelessness, hunger, financial insecurity, gun/gang exit and interruption, newcomer and refugee settlement/language services, family counselling and support, and education about Black heritage. These programs should be evaluated for effectiveness.

Addressing the needs of newcomers

There is considerable overlap in the experiences of newcomer and Canadian-born Black youth, and most of the recommendations in this report seek to address these shared needs. However, the engagement sessions highlighted that migration and settlement is particularly challenging for Black families and youth. This is especially true for those who have fled violence or otherwise politically unstable regions, and who may still be dealing with various forms of trauma. The following are proposed ways to address the needs specific to newcomers:

- Increase funding and support for a diversification of settlement services and staff training to deliver holistic and long-term programming for both families and youth based on critical need and not time since arrival in Canada. Specifically:
 - During the delivery of settlement services, mandate and include provisions for social support beyond education, housing, and health care that focus on crime prevention and improving coordination and implementation of early interventions targeting youth involved in the CJS.
 - This diversification in settlement services should stem from an alignment of goals and coordination across municipal, provincial, and federal governments.
 - This includes increasing the upper age limit of youth's admissibility to these services from 18 to 24 years old, where applicable.
- Improve and offer housing options with culturally-appropriate wrap-around supports for newly arrived and established newcomer and refugee families in the absence of safe and affordable social housing. An exemplary model is the IRCOM Model (see: Bucklaschuk, 2016).
- Increase funding and support for children and youth who have experienced interrupted schooling and require extra academic support, tutoring, and translation services:
 - Ensure credits are transferable to meet post-secondary education requirements and increase flexible options for transitional schooling through vocational programs.
 - Ensure availability of additional education supports including extra-curricular activities, guidance and counselling services, and investment in social clubs.
- Increase funding and support for ongoing relationship building between the Departments of Justice Canada, Public Safety Canada, and Immigration, Refugees, and Citizenship Canada and other newcomer- and refugee-serving organizations.
- Increase funding and supports for programming designed to educate newcomers on the Canadian criminal justice system.

- Improve population-level and individual-level data collection and analysis to identify policy gaps and unmet service/programming needs among Black newcomer and refugee youth.
 - Data collection and research should be led by or conducted in partnership with relevant community leadership, and should focus on criminal justice-related data and extend to other systems including education, settlement services, housing, employment, child welfare, and mental health care.
 - Ensure that newcomer youth receive education and social services that are age-appropriate.

Addressing education, schooling, and the school-to-prison pipeline

Findings from this engagement process revealed that negative schooling experiences and outcomes are related to a higher likelihood of Black youth becoming involved with the CJS. These outcomes and experiences are grounded in anti-Black racism. Action should be taken to separate schools and the CJS. The following are proposed ways to achieve this:

- Assess explicit racial bias of students upon entry to teachers college, and of educators prior to hiring. Set a zero-tolerance limit that must not be transgressed.
- Increase and incentivize representation of Black educators from diverse ethnic and cultural backgrounds. This must occur at the primary and secondary school level.
- Require anti-Black racism and culturally-sensitive training for existing and new educators. This training should be evaluated for effectiveness and should be about:
 - The struggles, histories, experiences, and perspectives of Black youth;
 - Reflective and self-reflective practices that examine the role of colonization and White supremacy in shaping the conscious and unconscious biases and beliefs that may be held;
 - Effective strategies for interacting with Black youth;
 - What constitutes microaggressions, explicit racist remarks or practices, and exclusion; and,
 - Evidence of how racist teaching practices have negatively impacted Black youth and led to ineffective teaching.
- Revise curricula to integrate aspects of Black history, culture, and accomplishments across subjects.
- Eradicate zero-tolerance policies, which have been demonstrated to have a disproportionate negative impact on Black students.
 - A move to violence prevention, social skills-building, positive behavioural supports, and other forms of progressive discipline should be undertaken.
- Redirect funding from police presence in school settings toward the provision of adequate mental health and conflict resolution professionals. Their approaches should be culturally-relevant to Black youth, and these professionals should be racially diverse.
 - These professionals should be tasked with addressing behavioural and academic issues that are focused on identifying solutions rather than punishments.
 - They should be consulted and make evidenced-based decisions regarding referrals to Individualized Program Plans (IPPs), alternative schooling, and decisions regarding suspension and expulsion.

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- They should consider factors like poverty, family conflict or dysfunction, trauma, and unresolved grief when making decisions.
 - Supports should be increased for culturally-sensitive social workers and child and youth workers with a mandate to find remedies to keep youth with their families; removal from the home should be a last resort.
 - Grief and trauma counsellors should be brought to schools in communities impacted by gun violence.
 - The presence and availability of social workers and other professionals who can connect with community organizations should be increased in schools, along with offering a tailored approach to Black children and youth facing challenges. Ensure they have a manageable caseload.
 - Collect and report racially disaggregated data annually on suspensions, expulsions, and drop-out rates at the primary and secondary school level. These data should be publicly available and the necessity for anti-racism informed corrective measures should be assessed and implemented on an annual basis.
 - Collect and report racially disaggregated data annually on IPPs and other alternative education programming. This should include enrollment rates, length of enrollment, transfers back to traditional schooling, drop-out rates on the IPP/after returning to traditional schooling, and graduation rates on the IPP/other alternative education programming and after returning to traditional schooling. These data should be publicly available and the necessity for anti-racism informed corrective measures should be assessed and implemented on an annual basis.
 - Implement an advocacy initiative to provide assistance and support for Black youth and their families by:
 - Consulting families on decision-making regarding academic streaming (differentiating students based on perceived academic ability/previous achievements (Segedin, 2012)), alternative education, and IPPs.
 - Requiring parental consent for IPP/other alternative education programming enrollment.
 - Increasing awareness of students' rights and obligations.
 - Providing support to address racism and discrimination in schools and address the school-to-prison pipeline.
 - Adhere to protocols of annual reassessment regarding IPP/other alternative education programming enrollment.
 - Assess effectiveness of IPPs/other alternative education programming and overhaul initiatives that have poor program outcomes, like low levels of return to traditional school settings and low student engagement.
 - Collect data annually on the racial make-up of academic streaming. These data should be publicly available and the necessity for adjustments to correct racial biases contributing to differential outcomes should be assessed and implemented on an annual basis.
 - Establish an independent complaint-management body that youth and parents can access that ensures remedies and accountability for anti-Black racism in schools. Staff terminated by the school board or this independent body should be prohibited from being hired at other schools.
 - Create strategies that encourage and support Black students to consider and prepare for promising career paths of interest to them. The pathways to job prospects, employers,



necessary credentials and experience should be clear. These strategies should be linked to the long-term employment opportunities outlined in the recommendations above for addressing low-income concentration for youth about to graduate.

Addressing over-policing, under-policing, and community safety

Findings from this engagement process illustrate that existing approaches to policing often create more harm than good for Black youth. The following are proposed ways to address this:

- Assess the explicit racial biases of students upon entry and recruitment to police academies, during training, and before hiring police officers. Set a zero-tolerance limit that must not be transgressed.
- Increase and incentivize representation of racialized police officers and other members of police services, especially representation of Black officers and members from diverse ethnic and cultural backgrounds.
- Require anti-Black racism and culturally-sensitive training for existing and new members of the police services. This training should be evaluated for effectiveness and should cover:
 - The struggles, histories, experiences, and perspectives of Black youth;
 - Reflective and self-reflective practices that examine the role of colonization and White supremacy in shaping the conscious and unconscious biases and beliefs that may be held;
 - Effective strategies for interacting with Black youth;
 - What constitutes microaggressions, explicit racist remarks or practices, or exclusionary and alienating practices; and,
 - Evidence of how racist policing practices negatively impact Black youth and lead to ineffective policing.
- Eliminate unjust and biased stop and search, carding, and street checks practices across Canada.
- Increase funding and develop strategies for relationship building, reciprocal dialogue, and building bridges of empathy and understanding between police and community members, including Black youth. These strategies should:
 - Take place in the community;
 - Be facilitated by Black community leaders; and,
 - Be collaborative with community organizations, residents, and police.
- Address the current approach to dealing with mental health issues:
 - Require mental health workers to accompany police officers for requests for assistance pertaining to people in mental health crises who possess weapons. In instances where there are no weapons reported, mental health workers should respond without police presence.
 - Abolish the practice of police officers conducting wellness checks and redirect funds for mental health workers to do this work.
 - Train police officers on how to interact with people undergoing acute mental health crises and on de-escalation techniques.
- Increase police accountability for brutality, excessive use of force, harassment, and under-policing against Black youth and their families by:
 - Penalizing police misconduct through legal action.

- Creating legislation that outlines the parameters of “excessive force” and harassment and clearly outlines when physical force may be used. The effectiveness of this legislation should be tracked.
- Mandating de-escalation training.
- Standardizing the use of body cameras and legislation that penalizes officers who turn off cameras during interactions.
- Developing independent oversight bodies for police across each province and territory and expanding the issues they oversee to include: police misconduct, failures to offer assistance to Black youth requesting help, harassment, excessive use of force, police brutality, interactions resulting in death, and other complaints. These bodies should be composed of an ethnoculturally diverse group of community leaders, government officials, and those in the legal profession who have a clear record of commitment to anti-racism and ensuring effective policing.
- Collect and report racially disaggregated data annually on complaints brought to independent oversight bodies, as well as the ethnocultural make-up of cases dismissed and remedies. These data should be publicly available and released annually, and the necessity for anti-racism informed corrective measures should be assessed annually.
- Establish a nation-wide database that tracks complaints and penalties for police misconduct. Prohibit the hiring of officers who have been fired for this reason in other police forces or cities.
- Collect and report racially disaggregated data annually on the racial make-up of youth who are subject to stop and search practices, brought into police stations by police for any reason, charged for any offence (organized by offence categories), receive extrajudicial measures, or are placed under bail conditions by police. These data should be publicly available and the necessity for anti-racism informed corrective measures should be assessed on an annual basis.

Addressing differential outcomes in the courts, ineffective legal representation, and legislation

Findings from this engagement process provide evidence that court proceedings and issues regarding legal representation lead to unfair legal outcomes for Black youth and their overrepresentation in the CJS. The following are proposed ways to address these issues:

- Considering the vastly different approaches used by the youth and adult CJS, and the fact that the adult CJS has more pervasive impacts on Black young adults (and young adults in general), expand the application of the *Youth Criminal Justice Act* (YCJA) to youth aged 12-24.
 - Considerable research from the field of neuroscience demonstrates that the brain does not fully mature until around age 25, with some research citing that this does not happen until age 30. This is particularly true of the parts of the brain tasked with “executive functioning” which is important for assessing risk, impulse control, and decision-making (Dahl, 2001; Giedd et al., 1999; Jernigan et al., 1999; Rubia et al., 2000). In light of the clear implications this has on offending, young adults aged 18 to 24 years should go through the same system as youth 12 to 17 years.

- Mandate that judges use reasonable discretion that considers age during sentencing when the defendant is a Black youth below the age of 25.
 - Black children and youth are more likely to have their age overestimated, be perceived as adults, deemed less innocent, treated more severely than White and Hispanic counterparts (Goff et al., 2014), perceived as less emotionally expressive than White counterparts (Halberstadt, 2020), and misperceived as being angry (Cooke & Halberstadt, 2021), a phenomenon known as “adultification bias” (Epstein et al., 2017) that negatively impacts Black youth. These misperceptions occur across the education and justice fields (Epstein et al., 2017; Goff et al., 2014), necessitating particular attention being paid to the age of Black young people in court.
- Collect data annually on the racial make-up of sentencing outcomes in the youth and adult systems across Canada. This data should account for criminal history, it should be publicly available, and released annually, and the necessity for anti-racism informed corrective measures should be assessed annually.
- Greatly increase the availability of culturally-appropriate diversion and restorative justice programs for Black youth with the aim of reducing formal processing through the CJS.
 - Increase funding to develop and implement diversion and restorative justice programs relevant to Canadian-born Black youth and newcomers. These programs should be assessed for effectiveness.
- Legally mandate the nation-wide adoption of sentencing principles that consider national, regional, and individual backgrounds and histories of Black youth, and adopt an explicit position on including race-based arguments in courts and countering anti-black racism through Impact of Race and Culture Assessments (IRCA)⁴. To clarify, mandating IRCA means:
 - Preventing discretion by the judiciary, Crown prosecutors, and lawyers to decide whether race-based issues are heard in court.
 - Providing government funding for IRCAs.
 - Requiring judges to explain how details emerging from the IRCA impacted decision-making regarding sentencing as it pertains to moral blameworthiness (i.e., a concept used in the YCJA).
 - Providing governmental funding to train more people on writing IRCAs. This training should be developed in consultation with the professionals involved in developing IRCAs in the past.
- IRCAs should also be employed during other interventions across the CJS including: policing, bail, trial, parole, and release conditions. For example, amendments were made to the *Criminal Code* in former Bill C-75 that require that the circumstances of Indigenous and “vulnerable” people who are accused be considered at bail. This clause should be amended further to specify that the backgrounds of Black people are also considered at bail, rather than leaving this to the discretion of the courts.
- Improve coordination between and among federal, provincial, and municipal government agencies to administer and evaluate the YCJA while ensuring mechanisms for government accountability and oversight, long-term operational funding, ethnocultural

⁴ For more information, see: <https://canada.justice.gc.ca/eng/fund-fina/gov-gouv/supporting-soutien.html?wbdisable=true>



community participation in decision-making, and measurement of meaningful outcomes informed by affected communities.

- Judges should adhere to the principle of restraint and assign bail conditions that are not overly complex, contradictory, redundant, or unnecessary, in line with former Bill C-75.
- Require profession-specific training for courtroom actors, including judges, lawyers, prosecutors, and juries on anti-Black racism and anti-racist approaches. This training should be evaluated for effectiveness, and should be about:
 - The struggles, histories, experiences, and perspectives of Black youth;
 - Reflective and self-reflective practices that examine the role of colonization and White supremacy in shaping the conscious and unconscious biases and beliefs that may be held;
 - Effective strategies for interacting with Black youth;
 - What constitutes microaggressions, explicit racist remarks, and racist or exclusionary practices;
 - Evidence of how racist judiciary, legal, jury, and courtroom practices negatively impact Black youth and lead to discriminatory outcomes and the overrepresentation of Black youth in custody; and,
 - Community diversion options available that are culturally-sensitive.
- Enhance the effectiveness of legal aid by:
 - Increasing funding for legal aid to reduce caseload, increase capacity of legal-aid funded lawyers, increasing ability to engage in test-case work, increasing funding for legal clinics.
 - De-incentivizing the practice where legal aid lawyers encourage Black youth who are innocent or charged for a first offence to plead guilty. The YCJA has provisions to prevent false guilty pleas; these should be adhered to.
 - Increasing and incentivizing Black lawyers to join legal aid in order to give Black youth the option of receiving Black legal representation.
- Increase the representation of racialized judges, Crown prosecutors, and lawyers, especially representation of Black people from diverse ethnic and cultural backgrounds.
- Increase ethnocultural diversity of juries by providing supports and incentives for the involvement of Black jurors and reviewing the process for jury selection.
- Increase funding for services that act as a liaison between the court system and Black youth and their families that:
 - Provide general and emotional support while navigating the justice system that is responsive to the needs of youth, explain legal terms and court processes in a digestible way, provide tips on reading disclosures, communicate what rights Black youth and their families have, and provide language translation services;
 - Advocate for clients who have issues with legal aid, lawyers, and judges that stem from anti-Black racism;
 - Aid with referrals to culturally-sensitive diversions, counselling, and other supports; and,
 - Provide comprehensive risk/needs assessment to Black youth.



Addressing anti-Black racism in custody and detention

Black youth, their families, and stakeholders highlighted the numerous ways that custodial institutions, staffed primarily by White people, are sites of extreme anti-Black racism where the absence of culturally-relevant services fails to rehabilitate Black youth, often leaving them worse off than when they entered the facilities. The following are proposed ways to address these issues:

- Increase and incentivize representation of racialized custodial staff (including officers, case managers, education professionals, and health and mental health professionals), especially representation of Black custodial staff from diverse ethnic and cultural backgrounds.
- Assess the explicit racial bias levels of individuals applying to receive training in youth detention and custody centers and at hiring. Set a zero-tolerance limit that must not be transgressed.
- Fund and require anti-Black racism and culturally-sensitive training for existing and new staff members working in custody facilities. This training should be evaluated for effectiveness and should be about:
 - The struggles, histories, experiences, and perspectives of Black youth;
 - Reflective and self-reflective practices that examine the role of colonization and White supremacy in shaping the conscious and unconscious biases and beliefs that may be held;
 - Effective strategies for interacting with Black youth;
 - What constitutes microaggressions, explicit racist remarks or practices, or exclusionary and alienating practices; and,
 - Evidence of how racist practices within custody negatively impact Black youth and lead to contradictory outcomes regarding rehabilitation.
- Collect data annually on the racial make-up of the youth and adults in custody across Canada. This data should be publicly available, and released annually, and the necessity for anti-racism informed corrective measures should be assessed annually.
- Mandating that correctional officers only work with youth or adult populations, not both.
- Increase accountability of staff in youth detention and custody facilities where Black youth are held that address unnecessarily punitive practices such as dehumanizing, neglecting, brutalizing, or harassing youth by:
 - Creating legislation that outlines the parameters of acceptable practices, and prohibits and/or legally penalizes behaviour that transgresses parameters. The effectiveness of this legislation should be assessed;
 - Mandating and funding de-escalation training;
 - Funding and developing provincial independent oversight bodies of youth detention and custody facilities that handle misconduct within institutions and that can penalize staff members through firings and legal action. Complaints may be brought forth by those currently in custody, previously in custody, their families, case managers, legal representation, or other staff within these facilities. These oversight bodies should be ethnoculturally diverse and must not be composed of people who are retired judges, police officers, or have worked in custody. If employees of the oversight body have worked in these fields, they must have a record that demonstrates a longstanding commitment to anti-racism. Data should

- 
- be collected annually and be publicly available. It should highlight racial differences in complaints, remedies, and case dismissals. The oversight body should be evaluated for effectiveness;
- Collecting data annually on the racial make-up of youth who are assigned Security Threat Group labels. These data should be publicly available, and released annually, and the necessity for anti-racism informed corrective measures should be assessed annually;
 - Providing transparency to youth and their families about information in a youth's file leading to the application of an STG label. The decisions on STG labels must be evidence-based; and,
 - Funding research to consider the purpose and effectiveness of STG labels and programming to assist with removing inappropriate STG labels.
- Establish a national database that tracks complaints and penalties for staff in custodial settings. Prohibit hiring officers that have been fired for misconduct in other institutions within or outside of the province.
 - Fund and develop programming within youth detention and custody facilities that:
 - Is culturally-relevant to Black youth and trauma-informed;
 - Is oriented towards: rehabilitation and self-development, providing cognitive-behavioural approaches to deal with mental health and addiction issues and the development of coping strategies, assisting with the transition into adult facilities, acquiring academic diplomas, providing skills that are transferrable to needs in the labour market (especially those connected directly to employment opportunities upon release), providing assistance with exiting gang and gun involvement; and,
 - Is developed and implemented in partnership with Black-led community organizations.
 - Improve coordination and communication between provincial youth detention and custody facilities as well as adult facilities regarding youth mental health needs, past trauma, learning disabilities, family background, etc., and provide intentional and purposeful interventions to prevent reoffending.

Addressing failures in release, community reintegration, and recidivism

Across Canada, Black youth in the community on probation, parole, or release are set up to fail because of contradictory probation/release conditions and the absence of supports and services that address their needs. Moreover, many Black youth report experiencing anti-Black racism from service providers who are supposed to assist them. Consequently, many Black youth end up reoffending and going back into custody. The following are proposed ways to address these issues:

- Assess the explicit racial biases of people seeking work as parole and probation officers. Set a zero-tolerance limit that must not be transgressed.
- Increase and incentivize representation of racialized parole and probation officers, especially representation of Black officers from diverse ethnic and cultural backgrounds. Give youth an option to have a parole or probation officer who is Black or has shared lived experience.

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- Require anti-Black racism and culturally-sensitive training for existing and new parole and probation officers. This training should be evaluated for effectiveness and should be about:
 - The struggles, histories, experiences, and perspectives of Black youth;
 - Reflective and self-reflective practices that examine the role of colonization and White supremacy in shaping the conscious and unconscious biases and beliefs that may be held;
 - Effective strategies for interacting with and supporting Black youth;
 - What constitutes microaggressions, explicit racist remarks or practices, exclusionary and alienating practices; and,
 - Evidence of how racist practices at this stage negatively impact Black youth and leads to reoffending.
 - Mandate that parole boards exercise the principle of restraint when placing conditions, avoid contradictory conditions, and sparingly use conditions that are grounded in social welfare, rather than criminal justice needs, such as curfews.
 - Probation and parole officers should exercise reasonable discretion when made aware of breaches that are not based in criminal behaviour, and advocate for their clients when conditions are deemed unreasonable or particularly difficult for the youth.
 - Provide financial resources for youth to meet obligatory probation/release conditions (e.g., transportation to attend counseling).
 - Mandate a release plan for Black youth being released from institutions that identifies supports in the community, a place of residence, employment, educational, and volunteer opportunities, services for youth with addictions or mental health issues, mentorship, and ID collection.
 - Mitigate the risks of post-release homelessness by:
 - Increasing funding to build more halfway houses for Black youth; and,
 - Providing family counselling that would allow youth to return to the family home, where appropriate.
 - Increase funding to establish a collaborative employment network for Canadian-born and newcomer Black youth with a criminal records. The network should:
 - Involve skills development, training opportunities, and a direct pathway to employment in the labour market;
 - Financially support community organizations that can facilitate relationships between Black youth with records and employers. These should be evaluated for effectiveness, as evidenced in hiring rates;
 - Be promoted to Black youth, their families, parole and probation officers, and other people whose job it is to assist Black youth with criminal records; and,
 - Be tailored to assist Black youth.
 - Fund Black-led community organizations that incorporate programming components that focus on providing assistance with exiting gangs and removing Security Threat Group labels.
 - Collect data annually on the racial make-up of reintegration outcomes for youth. These data should be publicly available, and released annually, and the necessity for anti-racism informed corrective measures should be assessed annually.
 - Fund and develop oversight bodies within provinces and territories that address misconduct or anti-Black racism by parole and probation officers. These bodies should be



racially diverse and composed of people with a longstanding commitment to anti-racism. They must have the power to penalize officers through termination and legal action. Data should be collected annually and be publicly available. It should identify racial differences in complaints, remedies, and case dismissals. The oversight body should be evaluated for effectiveness. In cases where an oversight body establishes that misconduct has occurred and a youth reoffends, this misconduct should be considered by the court when making decisions regarding bail, sentencing, or other conditions pertaining to the reoffending youth.

- Increase awareness and recourse to existing resources (e.g., make publicly and widely available a list of currently available and culturally-relevant programs and resources).



7. Conclusion

The Black youth, their families and stakeholders consulted through this engagement process identified a variety of systemic, social, economic and geographical factors that increase the likelihood that Black youth come in contact with the CJS. These included, among others, experiences with over-policing, poverty, exclusion from schooling, difficulties finding employment, and obstacles faced as newcomers attempt to integrate into society. Youth spoke of engaging in criminality flowing from the attraction to otherwise unattainable lifestyles, as a way of finding family and community, and in response to systemic barriers to participating in mainstream society. The theme of anti-Black racism ran through all of these explanations.

Anti-Black racism was also seen to influence Black youth's experiences with criminal justice institutions and its representatives. First contact with the system, in the form of policing, came very early for many youth, often in schools and within their neighbourhoods. At times, first contacts were absent of any criminality on the part of these young people. The youth, their families and stakeholders spoke of dehumanizing and degrading treatment at the hands of the police and by court actors. They also spoke of abusive, violent, and potentially criminal treatment by custodial facility actors. Poverty, language barriers and mental health struggles worsened treatment and as a result, lived experiences.

“Although emerging from these engagement sessions were stories of struggle, there was a salient point to be made among participants; and that was that none of these experiences are new nor are they isolated to [these Black youth], even though their stories and experiences are unique and positioned. Rather, the interactions between Black youth and the CJS and related institutions across Canada are part of a long history of anti-Black racism. Historically, these systems have not only sought to harm and unfairly punish Black communities—either intentionally or not—but have done so by viewing them as less than human and without the same rights afforded to other groups of citizens. Accordingly, as much as the...stories in this report are about the struggles Black youth face, they are also a reflection of the strength, courage, and resilience with which they have had to make difficult decisions to the best of their ability in the face of adversity and with an unyielding willingness to persevere.” (HOODFAMS, 2021)

It is important to recognize that the resilience demonstrated by Black communities in the face of adversity experienced across Canadian history comes at a high cost to the wellbeing of Black people in Canada – physically, mentally, and emotionally. There was a near unanimous perception that criminal justice agencies are not well equipped to deal with the specific needs of the ethnically and culturally diverse Black populations in Canada. There was also relative consensus that anti-Black racism is embedded in criminal justice agencies, as a factor driving the ways in which Black populations are treated throughout the entire CJS system. This report identifies numerous priority areas for action by all levels of government. These key priorities cut across several social systems and touch on the following areas:

- Financial security;
- Newcomer settlement;

- 
- Representation;
 - Mental health;
 - Education;
 - Employment;
 - Policing and community safety;
 - Courts;
 - Corrections; and,
 - Community release and reintegration.

This report exists alongside countless other reports, books, journal articles, documentaries, and news stories that all document racial injustices against Black people in Canada. These racial injustices limit Black youth, tear apart Black families and communities, attempt to extinguish the Black spirit, prevent Black progress, and put many Black people in a constant state of survival. Participants' stories clearly demonstrate that reducing Black youth's levels of contact with the justice system and improving their experience within justice institutions requires not only criminal justice reform, but also efforts within all the various social systems that shape the lives of Black youth, their families and their communities. Numerous previous works have called for action that addresses the roots of systemic racism and recommends concrete action for positive change that lasts. We hope this report is viewed not merely as words on a page or as just another report. We hope the suggested priority areas for action are viewed as opportunities to confront racial injustice holistically. Lastly, we hope that the priority areas for action are addressed with immediacy, creativity, intensity, passion, care, respect, collaboration, and acknowledgement that this work is long overdue.

Annex 1: Stages of the Criminal Justice System

Stages of the Youth Criminal Justice System

Possible Challenges & Opportunities for Discussion

YOUTH



Policing

- Racial profiling
- Over/under policing
- Excessive use of force
- Black representation in police
- Accountability for actions
- Community liaison officers/justice workers
- Alternative measures (diversion)**



Courts

- Court discretion
- Pre-trial detention
- Black and other legal aid and action centers
- Black representation in court
- Access to court workers & navigators
- Black community-specific youth courts and restorative justice options
- Differences in sentences
- Alternative measures (diversion)**



Corrections (jail, probation)

- Access to culturally* appropriate supports, programs, services
- Unfair or severe treatment in detention facilities (segregation, solitary confinement, maximum security)
- Black representation in corrections
- Reintegration & transition planning

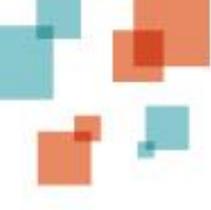


Community reintegration

- Access to culturally* appropriate reintegration supports, programs, services
- Black/other navigators and mentors
- Support from probation officers & youth workers
- Housing, education, employment & income support

* Note: For this placemat, the term culturally also means religiously and spiritually.

** Police and Crown attorneys can use alternative or extrajudicial measures. Examples of alternative/extrajudicial measures include: police warnings, police or crown cautions, referrals to community programs, youth justice committees and conferences, extrajudicial sanctions, etc.



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