



Indigenous Overrepresentation in the Criminal Justice System (CJS)

Young people identified overrepresentation of the Indigenous population in Canada’s Criminal Justice System (CJS) as unfair, and largely a result of societal discrimination as well as systemic discrimination in the justice system. They also felt that it was symptomatic of the poverty and intergenerational trauma affecting Indigenous communities.

What we also found¹

- Most youth noted that preconceived notions of Indigenous people, for example that they are inherently criminal or addicted to substances, could lead police, courts, and judges to assume guilt or assign harsher punishments.
- Youth participants believed that personal experiences of Indigenous people should be taken into consideration by the CJS at all stages, specifically poverty, trauma, intergenerational trauma, mental health challenges, and substance use/abuse/addiction.
- To decrease Indigenous overrepresentation in the CJS, youth overwhelmingly supported addressing root causes of crime, increasing the number of Indigenous persons involved in policy-making, diversifying juries and increasing the use of community-based sentencing that focuses on healing and building connections within the community.
- The majority of youth felt that a multi-pronged approach is required to reduce Indigenous overrepresentation such as recruiting more Indigenous professionals in the CJS (including policy-makers), providing better training for non-Indigenous professionals in the CJS and using alternative justice measures.

In more depth

Youth noted that many Indigenous people, especially those on reserve, experience poverty. With fewer financial resources, Indigenous people may find it difficult to meet basic needs, access the services and supports they need, and navigate the legal system, which may lead to more Indigenous people in the CJS at all stages.

Youth agreed that Indigenous have experienced intergenerational trauma. Youth noted that Indigenous people may feel disconnected from their culture and beliefs, which could lead to unhealthy behaviours, such as substance abuse or violence as a means of problem-solving, and that this could be a reason that more Indigenous people are in the CJS.

Most youth agreed that Canadians require better awareness on the past and current circumstances that Indigenous people face in their communities and their overrepresentation in the CJS, including education in schools but also greater exposure to, and engagement with, Indigenous culture.



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Youth believed a greater focus on and investing in Indigenous communities' financial and economic success, including education and career opportunities on reserve, could decrease Indigenous overrepresentation in the CJS. They also believed increasing the use of Indigenous justice programs which focus on healing and building connections between Indigenous and their communities could decrease Indigenous overrepresentation in the CJS.

Youth supported diversifying juries to ensure that they include Indigenous and other marginalized persons.

Most youth supported increased advocacy by Indigenous people using social media to educate the public on their current living conditions, the inequities and other challenges they may face. Young people stated that the governments should listen and take action on the overrepresentation of Indigenous people in the CJS.

In their own words,

"The Justice system does "justice" in a very western way. I think if Indigenous people were able to control how justice works over their own people, and were allowed to provide rehabilitation systems and have other cultural systems in place, there would be a decrease in their representation in prisons."

"Other socio-economic factors, for example the conditions that Indigenous people live in/ are raised in as children [increase their chances of ending up in the CJS]. Moreover, if a community burdens a minority group with negative stereotypes, those stereotypes and stigma can in turn cause the police to respond more violently or unrealistically accuse that minority group."

Method

Justice Canada, in partnership with the Students Commission of Canada (SCC)², conducted youth engagement projects in both 2016 and 2017. Each project explored youths' views, perceptions and expectations of the criminal justice system. This was done through developing and hosting a Justice Youth Action Committee (YAC)³, gathering opinions through youth-led Community Action Projects (CAPs)⁴, and hosting the Canada We Want Conference.⁵

Youth Engagement on the CJS Project 2016: Fourteen Justice YAC members representing Indigenous, non-Indigenous, rural, urban, and other diverse populations participated in monthly video calls from September 2016 to February 2017. The calls focused on youth perceptions of crime and the CJS, guiding principles and values of the CJS, and the connection between vulnerability, marginalization, and criminalization. YAC members engaged over 350 youth from across Canada in CAPs to gather opinions and perspectives on the CJS. Committee members utilized surveys (hard copy and digital), interviews, and discussion groups to gather youth voice and reported back to the committee facilitators and during committee calls. Following each call, the youth went back to their communities to solicit feedback from other young people on the issues discussed in the calls. Four CAPs were completed. The engagement continued at the Canada We Want Conference, where the **Justice System We Want theme team**, a group of seventeen youth, from six provinces, one territory, representing Indigenous and non-Indigenous, Northern, and a number of other diverse populations, engaged in five days of discussion on the values and objectives that they hope the CJS would uphold in the future.

Youth Engagement on the Criminal Justice System (CJS) Project 2017: Eight Justice Youth Action Committee members representing Indigenous, non-Indigenous, rural, urban, and other diverse populations joined bi-weekly calls from June 2017 to March 2018. This project had an issue-based focus relevant to the work of Justice Canada. Issues covered included: bail and AOJOs, restorative justice, problem-solving justice, overrepresentation of Indigenous persons in the



Research at a Glance

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CJS, overrepresentation of persons with mental health and cognitive issues in the CJS, performance measurement of the CJS, and the perspectives of victims of crime. During the 2018 Canada We Want Conference the **CJS theme team**, a group of 11 youth and 2 youth facilitators from 2 territories and 5 provinces, representing Indigenous and non-Indigenous, Northern, and a number of other diverse populations, engaged in discussion around justice issues.

For the issue of overrepresentation of Indigenous people in the CJS, Justice Canada and the SCC provided the young people with data that demonstrated Indigenous overrepresentation in Canada's CJS, both as offenders and victims of crime. Justice Canada and the SCC provided youth with some suggestions as to why this was the case, including the impact of colonialism, as well as suggestions for decreasing Indigenous representation in the CJS, such as more Indigenous courts. The SCC provided a questionnaire and a glossary of terms. Young people shared the survey in-person and online, collecting voice from 73 young people. The 2018 Canada We Want conference was very helpful in growing and diversifying the geographical reach and engagement of Indigenous youth; the theme team represented all regions of Canada with 8 of 11 members identifying as Indigenous, 6 of whom reside in the North (Nunavik, Nunavut, Yukon). This ensured we captured diverse voices, including Indigenous voices. The theme team members were acutely aware of the lived realities Indigenous people faced, (e.g., poverty, lack of basic needs, lack of support services), and the team's discussion provided context that validated survey findings.

For further information on the findings and/or surveys mentioned in this document please contact the Department of Justice's Research and Statistics Division (rsd.drs@justice.gc.ca)

¹ All youth findings on the overrepresentation of Indigenous people in the CJS span a two year period. Over both years, youth held consistent views.

² The Students Commission of Canada is a national charitable organization with a mission to support young people in putting their ideas for improving themselves and their communities into action. The Centre of Excellence for Youth Engagement is a network of youth, youth organizations and academics focused on providing evidence on the benefits of youth engagement and positive youth development.

³ The Students Commission selected members to join the Youth Action Committee for Justice Canada. The youth selected were from across the country, aged between 12 and 22 years, lived in urban and rural communities, were from diverse backgrounds and cultures, and had varied life experiences.

⁴ Community action projects required YAC (Youth Action Committee) members to go into their communities and gather data from their peers using the survey questions identified on the calls. Youth could deliver a survey, a focus/discussion group, or interviews to collect this data.

⁵ At the "Canada We Want" conference, the *CJS theme team* (a diverse group of youth from across Canada) generated recommendations for policy makers and other young Canadians regarding the criminal justice system.