



Action Committee on Modernizing Court Operations

NEEDS OF BLACK COURT USERS

A Statement from the Action Committee

Our Committee supports Canada's courts in their modernization efforts. It provides guidance for addressing challenges, and highlights opportunities and innovative practices to modernize court operations and improve access to justice for court users.

1. CONTEXT AND BACKGROUND

Considering the needs and perspectives of all court users is a key step towards achieving equitable access to justice. For Black people, this involves addressing the legacy of slavery, segregation, and marginalization that affects every aspect of their lives. Only then it is possible to understand both the unique needs of Black court users and approaches and strategies that could meet these needs. This publication addresses the unique context of Black people in Canada's courts, while the companion guidance, [Addressing Barriers Faced by Black Court Users](#), builds on this foundation by providing steps courts can take to improve access to justice and reduce trauma for this segment of the population.

While the guidance in these publications primarily concerns end users such as litigants, victims and witnesses, portions of it will also be relevant to the lived experience of those working in the courts such as judges, court staff, legal professionals, and Black community actors. This guidance builds on the Action Committee's publications on Meeting the Diverse Needs of Court Users ([Orienting Principles](#) and [Operational Practices](#)). Readers are encouraged to review those related publications.

1.1 Black People in Canada

Between 12.5 to 15 million African people were captured and transported during the period of the Transatlantic Slave Trade, which lasted for almost 500 years between the 1400s and 1890s. It is estimated over five million African people died before they ever made it to the Americas, including one to two million who died at sea during what is known as the middle passage. While less widespread than in other parts of the Americas, slavery existed in Canada for 200 years. Although Canada did not have a plantation system, enslaved African people were exploited for their labour and subjected to psychological and physical abuse. Canadian colonies benefited from unpaid forced labour, and individual settlers used the possession of enslaved African people to both enhance their social status and grow generational wealth.

Canada has a number of distinct historic Black communities, some of which were established before the abolition of slavery:

- The African Nova Scotian community is over 400 years old and was settled through different waves of migration, including freed Black veterans who supported the British during the American War of Independence, enslaved Black people brought over by the White Loyalists, Black refugees from the War of 1812, and subsequent arrivals throughout the 20th century. They settled in 52 historic communities including Shelburne, Africville, Halifax and Sydney. In 1970, the city of Halifax relocated the residents of Africville before destroying the community and repurposing the area for



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industry and infrastructure. Most residents were not properly compensated for the value of their homes, and this forced relocation destroyed the community support they had created for themselves. Many were forced to move into social housing or to primarily non-Black neighborhoods where they faced threats of violence and other racist behaviour.

- St. Antoine (Little Burgundy) in Montreal was a vibrant English-speaking Black community and an internationally renowned Black cultural centre established in 1887 by people who migrated to work as railway porters in Montreal's railway, one of the few jobs legally available to Black people. It was the home of world-renowned jazz musician Oscar Peterson. As with Africville, this community was destroyed in 1970.
- Other historically Black communities in Canada include Hogan's Alley (Black Strathcona) in Vancouver; Junkins, Keystone, Campsie, and Pine Creek in Alberta; and Oro Township, Priceville, Collingwood, Amherstburg, and Chatham in Ontario.

Today, there are around 1.5 million Black people in Canada representing 4.3% of the population and projected to be the second largest racialized group by 2041. They are amongst the youngest population in Canada. Almost half of the Black population was born in Canada, while most newcomers originate from the Caribbean or Africa. These recent arrivals come from close to 200 different countries and represent over 350 ethnicities and around 250 mother tongues.

Anti-Black racism, which is a direct legacy of the Transatlantic Slave Trade, continues to affect every aspect of the lives of Black people in Canada, whether they are descended from historic Black communities, their ancestors arrived during later waves of migration, or they are newcomers to Canada. One of the most enduring consequences of this legacy is the continued justification of the oppression of Black people due to a permanent attribution of the characteristics of subservience, criminality, lack of intelligence, and dangerousness to Black skin and features.

1.2 Effects of Racism on Confidence in the Administration of Justice

The abolition of slavery in Canada did not result in equal rights for Black people. Slave codes were replaced by both informal social exclusion practices and formal segregation laws that restricted access to education, housing, employment, hospitality, public transportation, hospitals, and municipal services. Canadian courts often enforced those segregationist laws and practices, leaving Black people with little recourse. Coupled with consistent denial of the existence of discrimination by Canadian government officials at all levels, these practices meant that Black people have historically experienced the law and courts as sources of inconsistency and oppression, rather than of justice.

Black people's experiences with the Canadian justice system today continue to be characterized by racism, discrimination, and unfair treatment. In the criminal context, Black people are disproportionately targeted in proactive policing practices like street checks and discretionary charges or arrests. At the other end of the process, Black people are over-represented in the corrections system. These experiences have a negative effect on the whole Black community, as the discriminatory treatment experienced by some contributes to widespread distrust of all institutions associated with the justice system, including the courts.



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2. SOURCES OF TRAUMA AND INEQUITY FOR BLACK PEOPLE IN CANADA

Engaging with the justice system can be traumatic for anyone, but this trauma is often exacerbated for Black people due to the social, legal, and economic legacy of slavery. Social determinants of justice are factors such as employment, income, housing, education, and health. When negatively impacted, these experiences can increase the risk of contact with the justice system. For Black people in Canada, racism impacts all these factors significantly.

2.1 Employment Inequity

Regardless of educational attainment or length of time in Canada, Black people very often face systemic discrimination in the labour market. This discrimination affects their chances of being recruited, hired, promoted, and retained; and contributes to pay inequity, unstable or precarious employment, and de-skilling. In turn, all these factors can result in higher unemployment rates, lower income, and fewer career advancement opportunities. For example, despite having slightly higher levels of postsecondary education, Black people with a bachelor's degree earn a median income significantly lower than their non-Black peers. As with other newcomers, Black immigrants also face obstacles to having their foreign credentials, skills, and experiences recognized. As a result of these barriers, Black people are more likely to live in poverty from generation to generation.

2.2 Intergenerational Trauma and Adverse Childhood Effects

By the age of 18, a disproportionate number of Black people have experienced distressing incidents such as abuse, neglect, domestic violence, parental mental health issues, interactions with the police, and discrimination in school. These experiences are known as Adverse Childhood Experiences (ACEs). When coupled with a societal tendency to “adultify” Black children, or treat them as less innocent or childlike than other children, these ACEs can increase the likelihood a Black person will become involved in the justice system.

→ **Over-policing of Black youth:** Labour market discrimination affects Black adults' ability to provide both a safe living environment for their children and the supervision necessary to reduce a child's likelihood of contact with the justice system. Because they are paid less, many Black parents work multiple jobs to make ends meet, while the overincarceration of Black men means a higher percentage of Black children are raised in single parent households compared to the rest of the population. Due to all these factors, Black children often live in impoverished neighborhoods that are over-policed. Consequently, Black children are more likely to experience contact with police at a young age. This can involve:

- Regular stops during daily activities and demands to provide personal information without being under arrest
- Targeting while around other Black youth
- Singling out when in the company of non-Black youth, even when doing nothing wrong
- Wrongful accusations while in the company of another youth accused of committing a crime



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- Harsher treatment in the enforcement of municipal by-laws
- Heightened surveillance resulting from being stereotyped as a criminal, thug, or gangster
- Police intervention in response to mental health issues

→ **Education:** Societal stereotypes labeling Black youth as angry, violent, prone to criminality, and dangerous affect how they are perceived and treated by school officials. Racism in schools affects Black children's mental health, career opportunities, and family lives. Discriminatory disciplinary practices expose them to the school-to-prison pipeline by placing them in situations that increase the likelihood of contact with the criminal justice system.

Further, Black children are more likely to be underestimated academically and consequently diverted into programs that limit their postsecondary education opportunities or future career prospects. Even when they have access to programs to correct inequities, Black students still face discrimination when attempting to receive recommended accommodations or support.

Compared to their non-Black peers, Black students are more likely to receive harsher punishment, up to and including police intervention, for similar behaviour. They are also less likely to receive mental health support. Additionally, intervention by school officials who lack cultural understanding of Black parents' parenting styles can result in disproportionate intervention by child protection agencies.

2.3 Relationships with Police

The over-policing Black people first experience in their youth continues into adulthood. At the same time, they are under-protected and receive less support when they are victims of crimes. This gap is particularly significant since Black people experience disproportionately high levels of victimization:

- They are three times more likely to be victims of homicide than the rest of the population.
- There has been a steady increase in reported hate crimes against Black people. People with certain intersecting identity factors, like Black trans women, are at a particularly high risk of being victims of a hate crime.
- Black women experience domestic, gendered and sexual violence at a much higher rate than other racialized women, and Black girls also experience disproportionate incidents of sexual and physical abuse.

Despite these adverse experiences described above, Black people may be reluctant to seek police help because of negative perceptions of law enforcement or past experiences with discrimination.



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3. BLACK PEOPLE AND THE COURTS

As with other marginalized or vulnerable populations, Black people face several challenges that can limit their access to the courts. For Black people, though, the discrimination experienced in other aspects of life can heighten these inequalities and barriers to accessing the justice system.

- **Financial barriers to entry:** Employment discrimination means many employed Black people may have incomes that do not allow them to qualify for legal aid support, but do not earn enough to afford legal representation to help them navigate court or tribunal processes.
- **Barriers for self-represented litigants:** Complicated court and tribunal processes and procedures are a barrier for all self-represented people seeking access to the court. When combined with mistrust generated by prior experiences of racism from institutions like the police and child protection services, these challenges can lead Black people to either avoid the courts altogether or discontinue a case midway through. These challenges are heightened for Black immigrants who do not speak French or English as a first language.
- **Simultaneous involvement in multiple justice system proceedings:** People who are engaged with the criminal justice system are often involved in immigration or family law proceedings at the same time. For Black people, this intense interaction with the justice system can enhance the trauma associated with the court process by exposing them to multiple experiences of anti-Black racism.
- **Disproportionate consequences of guilty pleas:** Many accused persons plead guilty without completely understanding the long-term consequences of that decision, either because they want to be released from pre-trial detention or because counsel encourage them to do so. This phenomenon can disproportionately affect Black people for three reasons. First, they may have a greater incentive to plead guilty to avoid pre-trial detention since research has shown that Black accused persons are disproportionately denied bail and detained before trial – and are more likely to be detained for longer periods. Second, Black persons who are found guilty are more likely to be sentenced to custody or to receive probation, rather than sentenced to pay a fine. This inequity affects both adults and youth. And finally, once in custody, Black people in federal institutions are more likely to serve time in maximum security and for longer periods without access to the programming that could support a downgrade in security classification.

Additionally, Black inmates' vulnerability is often increased because they experience significant racism from both correctional officials and fellow inmates. These experiences may include:

- The inconsistent application of rules by correctional officers, including being disproportionately subjected to harsher disciplinary measures such as physical violence and administrative segregation



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- Lack of access to medical care, culturally appropriate mental health support, and basic hygiene products that are necessary for Black people to maintain healthy skin and hair
 - Lack of cultural competency and diversity in correctional staff, resulting in dehumanizing treatment due to an overreliance on stereotypes about Black people
 - Disproportionate inability to access effective programs and resources both before and after release
 - Discrimination in the parole process resulting in reduced opportunities to benefit from mechanisms meant to support reintegration into society such as temporary absences, day parole, and full parole
- **Anti-Black racism in the justice system:** Biases and stereotypes about Black people can result in negative assumptions about their intelligence, trustworthiness, or likelihood to be involved in criminal activity. Facing this kind of discrimination from actors across the justice sector can both affect a Black person's ability to trust their lawyer and erode their confidence in the justice system more generally.

Lack of knowledge about the Black experience can also affect the quality of legal representation Black people receive from their lawyer. Black court users may face challenges receiving a proper assessment of their legal and social needs or accessing useful tools that could provide relevant social context information during sentencing like an Impact of Race and Culture Assessment (IRCA).

Finally, racism can interfere with Black legal professionals' ability to advocate for their clients – especially if these clients are also Black – and affect how clients perceive them and their professional abilities. This also applies to other Black professionals, such as expert witnesses, involved in the defense of a Black accused person.

- **Language barriers faced by Black immigrants:** As explored in the Action Committee's guidance on [Interpretation in the Courts](#), quality interpretation is essential for minority language speakers to access justice. Given the wide range of possible countries of origin, Black francophone immigrants may both speak a dialect and operate in a social context that differs from that of a Canadian francophone interpreter. Interpretation services provided by someone who lacks the necessary knowledge of relevant colloquial terms or related cultural context can undermine the accurate interpretation of a Black person's testimony, potentially affecting the court's understanding of the facts or assessment of the person's credibility.

While all these experiences have been outlined through qualitative studies, a lack of disaggregated quantitative data on the experiences of Black court users makes it difficult to fully understand the extent to which racism affects outcomes for Black court users. Collecting this data would support greater understanding of both these challenges and additional areas where inequities may exist.



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ANNEX 1

GLOSSARY OF TERMS

Anti-Black racism: Refers to prejudice, attitudes, beliefs, stereotyping, and discrimination against people of African descent rooted in their unique history and experience of enslavement and its legacy and resulting in their current social, economic, and political marginalization. This includes unequal opportunities, lower socio-economic status, higher unemployment, significant poverty rates, and overrepresentation in the criminal justice system. Anti-Black racism is normalized in Canadian society and deeply entrenched in Canadian institutions, policies, and practices.

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

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 (race is often described as being “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: 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 patterns appear neutral on the surface but, nevertheless, have an exclusionary impact on racialized persons. (Canadian Heritage, 2019)

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)



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ANNEX 2

RESOURCES AND SUGGESTED READINGS

Resources

[Association of Justice and Treatment Professionals \(AJTP\)](#): a non-profit association where a multidisciplinary team of professionals share ideas and best practices to combat the social, economic, medical, and psychological determinants of crime. It provides access to resources such as webinars, library collections, discussion forums, and conferences addressing these issues. In 2017, the AJTP published [People, Places and Things](#), a compilation of stories from practitioners and participants about their experiences in Drug Treatment Courts.

Centre for Justice innovation, "[Trauma Informed Practices for Criminal Courts - Trauma-Informed Practices for Criminal Courts – A Blueprint for Implementation](#)" (2024): The Centre for Justice Innovation is a U.S. based community justice organization with a multidisciplinary team of professionals including lawyers, social workers, community organizers along with people with lived experience with the justice system. The Centre works closely with courts to identify challenges and develop innovative solutions to addressing them. The "Blueprint for Implementation" provides practical guidance and tools to justice system actors working in criminal courts to help them apply trauma-informed practices in their roles.

Suggested Readings

Articles

Constance Backhouse, "[Turning the Tables on RDS: Racially Revealing Questions Asked by White Judges](#)" by Constance Backhouse" (2021) 44:1 Dal LJ 181.

Adam Cotter, "[Perceptions of and experiences with police and the justice system among the Black and Indigenous populations in Canada](#)" (Statistics Canada, 2022).

Nathalie Domey and Natalka Patsiurko, "[The Diversity of the Black Populations in Canada, 2021: A Sociodemographic Portrait](#)" (Statistics Canada, 2024).

Dr. Jennifer Kelly, "[Sustained Opposition to Black Immigration](#)", And Still We Rise: A Black Presence in Alberta, late 1800s – 1970s, City Museum Edmonton, (2025).

Dr. Akwasi Owusu-Bempah and Storm K. Jeffers, "[Black Youth and the Criminal Justice System: Summary Report of an Engagement Process in Canada](#)" (Justice Canada, 2021).

Owusu-Bempah, A., Jung, M., Sbaï, F., Wilton, A. S., & Kouyoumdjian, F. (2021), "[Race and Incarceration: The Representation and Characteristics of Black People in Provincial Correctional Facilities in Ontario, Canada](#)" *Race and Justice*, 13(4), 530-542. (Original work published 2023)

Legal Aid Ontario, "[Anti-Black Racism in Canada's Criminal Justice System: Background Information & Resource Guide](#)".

Charbel Saghbini and Lysiane Paquin-Marseille, "[Black people in criminal courts in Canada: An exploration using the Relative Rate Index](#)", (Justice Canada, 2018).



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Books

Constance Backhouse, *Reckoning with Racism Police, Judges, and the RDS Case*, (UBC Press, 2022).

Afua Cooper, [*The Enslavement of Africans in Canada*](#), The Canadian Historical Association, Immigration and Ethnicity in Oppression (2022).

Franz Fanon, [*Black Skin, White Mask*](#), translated by Charles Lam Markmann (Pluto Press, 1986).

Robyn Maynard, *Policing Black Lives: State Violence in Canada from Slavery to the Present*, Revised & Expanded Edition (Fernwood Publishing, 2025).

Hilary MacDonald Beckles, [*Slave voyages: the transatlantic trade in enslaved Africans*](#), UNESCO (2002).

James W. St. G. Walker, "Race", Rights and the Law in the Supreme Court of Canada, Historical Case Studies, (The Osgood Society for Canadian Legal History and Wilfrid Laurier University Press, 1997), Chapter 3 *Christie v York Corporation*.

Reports

Canada Black Justice Strategy Reports:

- Department of Justice Canada, [*Towards Transformative Change: An Implementation Plan for the Canada Black Justice Strategy*](#) (2025).
- Dr. Akwasi Owusu-Bempah and Zilla Jones, [*A Roadmap for Transformative Change: Canada's Black Justice Strategy*](#) (Department of Justice Canada, 2023).
- Storm K. Jeffers, [*Summary of Site Reports for Canada's Black Justice Strategy*](#) (Justice Canada 2023).
- [Community-based organization engagement reports](#): series of reports prepared by 12 community organizations following consultation with Black communities in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New-Brunswick, Nova Scotia, and Northwest Territories.

Equal Justice Initiative, [*The Transatlantic Slave Trade*](#) (2022).

Dr. Wilson Head, [*Discrimination Against Blacks in Nova Scotia*](#), Royal Commission on the Donald Marshall, Jr. Prosecution (1989).

Lauren McAuley and Jessica Lawn, [*Race and Prosecutorial Decision-Making: An Analysis of the Public Prosecution Service of Canada's British Columbia's Regional Office*](#) (Public Prosecution Canada, 2022).

Dr. Scot Wortley, [*Halifax, Nova Scotia: Street Checks Report*](#), Nova Scotia Human Rights Commission (2019).

Dr. Scot Wortley, [*Racial disparities in British Columbia police statistics: A preliminary examination of a complex issue*](#), British Columbia Office of the Human Rights Commissioner (2021).



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Ontario Human Rights Commission, [*A Collective Impact - Interim report on the inquiry into racial profiling*](#) (2018).

Ontario Human Rights Commission, [*A Disparate Impact: Second interim report on the inquiry into racial profiling and racial discrimination of Black persons by the Toronto Police Service*](#) (2020).

Ontario Human Rights Commission, [*From Impact to Action: Final report into anti-Black racism by the Toronto Police Service*](#) (2024).

Office of the Correctional Investigator, [*Office of the Correctional Investigator Annual Report 2021-2022*](#), Update on the Experiences of Black Persons in Canadian Penitentiaries (2022).

Observatoire des profilages, [*Le profilage racial dans les interceptions routières au Québec*](#), Collective de recherche sur les interceptions routières et le profilage racial dirigé par Marie-Eve Sylvestre (2023) (available in French only).

Websites and Databases

Black Cultural Centre for Nova Scotia, African Nova Scotia Museum “[Black Migration in Nova Scotia](#)”.

[Glossary of Terms Canadian Race Relations Foundation](#): relevant definitions to supplement the list in Annex 1.

[Terms & Definitions – Race and Ethnicity Terms & Definitions](#): additional relevant definitions to the list in Annex 1.

“[Slave Trade Routes](#)” Slavery and Remembrance – A Guide to Sites, Museums, and Memory (UNESCO).

[SlaveVoyages](#): Comprehensive database of information about the Transatlantic Slave Trade compiled by researchers from libraries around the world.