

## INTRODUCTION

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This report is a summary of the information that was researched and reviewed by members of the Disability Justice Network of Ontario's "Prison Project". The project in its entirety is meant to review, hear, and amplify the voices and experiences of those who are disabled, racialized, and incarcerated while also working to provide direct support and educate the public. The initial phase of this was reviewing existing sources of information including news articles, studies and journal articles, and putting together a literature review. This document is a brief summary of key information that was found and reviewed within the scope of the literature review.

Overall, the information available looking at individuals' experiences while navigating prison at the intersection of being both racialized and disabled was minimal. There was a large amount of information around the experience of people who are racialized and incarcerated, but not much around those who are disabled and incarcerated.

Additionally, while our project focuses on the experiences of people *in prison*, we felt that it would be a disservice to ignore that the ableism and racism people experience via external systems such as schools and social work. We heard, and see, the direct correlation and causations between the racism and ableism individuals experience systemically in society and their entry into the criminal legal system. In many cases, the racism or ableism of a single individual could be responsible for an individual being imprisoned. It's a stark reminder that we all have internal work to do, but also that if we develop alternative solutions to policing and prisons that we, ourselves, can contribute towards decarceration.

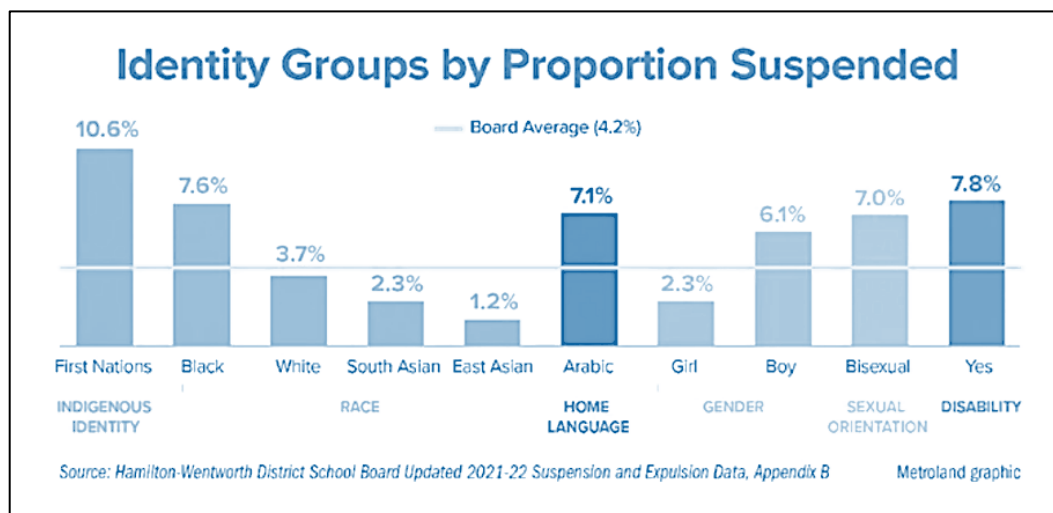
- The Prison Project Team

*Our project is abolitionist in nature, and in no way will we support the use of this report to push for reforms which will ultimately support the expansion of the prison industrial complex, or surveillance state. We do not believe that the expansion of prisons will better serve those with disabilities, or provide more fair or equal justice. We understand that the severity and depth to which racism and ableism is embedded within these systems – as well as many of the individuals within these systems - mean that nothing short of abolition is appropriate.*

## SCHOOLS

Those who are racialized, specifically Indigenous and Black youth – as well as those who are disabled are the most likely to be suspended or expelled from schools. In Hamilton, Ontario in the 2021-2022 school year, Indigenous youth made up 10.6% of suspensions and expulsions, Black youth made up 7.6%, and disabled youth made up 7.8%. Arabic speaking students represented 7.1% of those suspended or expelled.

Time away from school enlarges the gap between education and opportunity equity between racialized students and non-racialized students and impacts careers, salaries, and perpetuates intergenerational poverty.



The overrepresentation of marginalized youth in suspension and expulsion data can be traced back to systemic and interpersonal racism.

With the introduction of the Safe Schools Act (2000) came “zero tolerance” policies towards “violence” in schools and mandating school responses, however those policies continue to be interpreted and applied disproportionately to racialized and disabled students. What is viewed by school staff as “violent behaviour” is often different based on the youth’s skin colour or mental health status. Black and Indigenous students are twice and three times as likely to be suspended than a white student exhibiting the same behaviours<sup>1</sup>.

In 2022, a study measured teacher and police responses to hypothetical student behaviours. The racial data was manipulated throughout. Teachers and administrators were “significantly more punitive” towards the Black students than the white students, more often requesting expulsion or even juvenile detention for the same behaviours and situations<sup>2</sup>. Police were more often involved by staff when students were Black, or “mental health behaviours” were present, and if police responded with force to the student, staff more often justified police violence as necessary.

In addition to zero tolerance policies, staff/counsellors are more likely to involve police or child welfare for home and housing situations disclosed by students who are racialized. Black, Indigenous and disabled children are more likely to be removed from their homes, and the removal of children from their families or

<sup>1</sup> Experiences of Adversity Among Highschool Students who Have Been Suspended or Expelled, JE Saunders

<sup>2</sup> Police & Teachers Perceptions of Police to Student Encounters, SAGE Journal

origin has a direct link to their later involvement with the criminal justice system. Black youth are also more likely to be streamed into non-university programs<sup>3</sup>.

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<sup>3</sup> Collins & Magnan, 2018; George, 2020; James & Turner, 2017; James, 2012

## SOCIAL SERVICE WORK

While many individuals view the social service sector as a place of care or philanthropy, the outcomes for those involved in it who are Black, Indigenous, and disabled within the sector are often detrimental, and a pipeline to involvement with the criminal legal system.

Society – as well as our service systems - often default to using the police for those who are “suspicious” or “dangerous” – often coded language used to describe those who are simply making someone uncomfortable. The individuals are often Black, Indigenous, houseless, or someone with addictions, mental health issues, or other disabilities and neurodivergences.

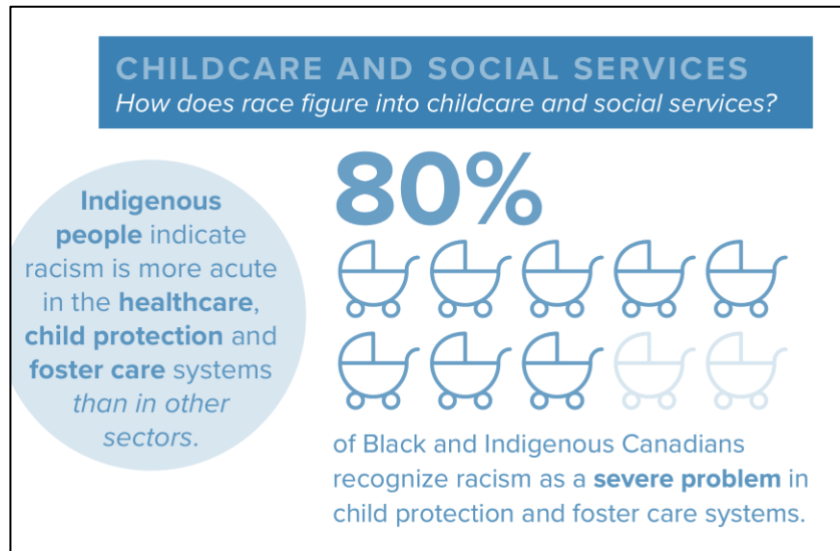


Image from the Blackness in Canada Policy Network  
(York University Institute for Social Research)

Involving police often results in an individual becoming known to police, being displaced by police, or being charged or apprehended – all factors which often lead these individuals to becoming involved in the criminal legal system either immediately, or in the future. Once there, the same issues of houselessness, mental illness or other disabilities, addictions or race becomes a barrier to obtaining bail/release due to bias or lack of supportive programs. It's also becoming more commonplace to intentionally hold individuals with complex needs in prison while they are on waitlists for psychiatric or other services; placements that too often end with an individual's death, as is the recent cases of Tamara Lucier, Timothy McConnel, and Elaine Blehm.

*As it stands, our human services system has all but defaulted to the criminal justice system as the primary path of choice to address persons with complex needs. More specifically, when such individuals act out, or merely present in a manner that is deemed anti-social, disruptive to the public peace, or merely unpleasant to encounter, we expect the police to intervene for everybody's immediate safety. Too often, when other options do not exist, or may exist but in such limited capacity to be of no immediate assistance, the individual is charged and taken to court to answer for their offending behaviour, or in some effort to curtail that behaviour, or simply to remove their offending presence from the community. Very often, it is the same complexity of their needs that renders these individuals ineligible for immediate bail release conditions, and as result, an ever-increasing number are remanded into provincial custody.*

*Excerpt from An Obligation to Prevent:  
Report from the Ontario Chief Coroner's Expert Panel on Deaths in Custody  
January 2023*

A youth's involvement in the child welfare system is directly correlated with their involvement in the criminal legal system. Close to 1/3 of all children taken into "care" are charged with at least one criminal offense before the age of 18<sup>4</sup>. That figure jumps to 50% of youth by the age of 21. Contact with the child welfare system remains one of the strongest factors – along with gender, race and disability – at predicting involvement in the criminal legal system: Over 80% of all charges laid against youth are youth who've had contact with the child welfare system. Youth in care are more likely to be accused of a crime by the time they age out of the system than to have completed high school and have higher mortality rates <sup>4</sup>.

Statistically, one third of Indigenous children are involved in the "child welfare" system as a result of individual, systemic, and structural racism, including the practice of birth alerts and consistent underfunding of programs and communities, in addition to the historical trauma of colonization, residential schools, the sixties scoop, as well as ongoing assimilation or cultural genocide tactics used by the government. In Toronto, approximately 41.8% of all children in care are Black, yet only make up 8.5% of the local population. Indigenous children represent 25.5% of children in care, yet only make up 3.4% of the local population<sup>5</sup>.

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4 The Just Care Report, 2022

5 The Overlap Between the Child Welfare and Youth Criminal Justice Systems, Rady Faculty of Health Sciences

## PRIVATE SECURITY

Nearly 40% of Respondents of an Ontario Human Rights Commission survey indicated that they had been racially profiled within the province, and that Police, private security and private businesses were among the top areas/sectors they experienced profiling<sup>6</sup>. Experiences of racialized people – mostly Black and Indigenous – indicated instances ranging from being watched or followed by security and store clerks, to being questioned inappropriately, being asked to leave their bags or potential purchases at the counter, monitored intensively around the dressing rooms, and being wrongly accused - and searched for - stealing.

While private security is more likely to over surveil individuals who are racialized, they're also more likely to involve the police when there's a minor offense instead of releasing the individual with a trespass notice like their white counterparts.

**Table 4. Top five sectors where racial profiling was reported to have taken place, by select racial or ethnic backgrounds and creed groups**

Group	Sector	Count	Percentage %*
Black	Private business or retail service	81	46.6
	Police	66	37.9
	Employment	51	29.3
	Government or social service	46	26.4
	Education	42	24.1
Indigenous	Private business or retail service	23	33.3
	Police	22	31.9
	Healthcare	18	26.1
	Education	14	20.3
	Government or social service	11	15.9
Muslim	Employment	29	38.2
	Transportation	28	36.8
	Education	22	28.9
	Private business or retail service	20	26.3
	Police	15	19.7
Arab or West Asian	Transportation	12	32.4
	Employment	12	32.4
	Education	10	27.0
	Private business or retail service	8	21.6
	Other	8	21.6
South Asian	Transportation	34	42.5
	Employment	27	33.8
	Police	25	31.3
	Education	20	25.0
	Private security	16	20.0

**Note:** Percentages are based on the total number of people identifying with this racial, ethnic or creed category who answered this question. Percentage totals exceed 100, due to survey respondents identifying multiple sectors. Percentages reflect the survey respondents only, and are not representative of the total population.

<sup>6</sup> Under Suspicion: Research and Consultation Report on Racial Profiling in Ontario, OHRC, April 2017

## POLICING

As a direct result of racist and ableist policies, reactions and procedures, police are at least in part responsible for the over-incarceration of individuals who are Black, Indigenous, and disabled. This includes practices such as the over-surveillance of Black and Indigenous people in communities and schools, but also individual responses to people with addictions, mental health issues, and other disabilities.

- Black and Indigenous youth are more likely to be stopped by police than white individuals with the same backgrounds.<sup>7</sup>
- Black youth are also less likely to be cautioned, and more likely to be formally charged, than white youth apprehended for the same reasons.<sup>8</sup>
- Traffic stop data shows that young, Black male drivers were stopped 8x more than would be expected for their population, while Middle Eastern drivers were stopped 12x more than expected.<sup>9</sup>

 **CANADA-WIDE**

- **22% of Black Canadians have been unfairly stopped by police in the last 12 months.**
- White Canadians have had minimal experience of being unfairly stopped by police (5%).
- Non-white and Indigenous groups indicated that they have been stopped more than White Canadians but less than Black Canadians (10%).

Image borrowed from Blackness in Canada Policy Network  
(the Institute for Social Research)

Black, Indigenous, and individuals with disabilities are also more likely to face violence and harassment at the hands of police.

- Peel police statistics showed police were 3.2 times more likely to use force against individuals who were Black.<sup>10</sup>
- In Hamilton, ON police responded to a medical call involving a Black youth – an employee on shift - who was having a seizure. They chose to deploy a taser against the individual, as he was disoriented in the postictal stage.<sup>11</sup>
- In Mississauga, police recently deployed a taser against a non-verbal autistic youth who, though naked, was not exhibiting any aggressive behaviour. The youth was sitting and playing the autumn leaves. Neighbours had called for medical assistance, worried about the youth because of the weather.<sup>12</sup>
- In Thunder Bay, the police service recently admitted to “compassion fatigue” when responding to the Indigenous community, blaming it for the preventable death of an Indigenous man in their custody who died of medical neglect around complications arising between alcohol and diabetes.<sup>13</sup>

<sup>7</sup> Youthful Discretion: Police Selection Bias in Access to Pre-Charge Diversion Programs in Canada  
SAGE Journal, Kanika Samuels-Wortley

<sup>8</sup> Youthful Discretion: Police Selection Bias in Access to Pre-Charge Diversion Programs in Canada  
SAGE Journal, Kanika Samuels-Wortley

<sup>9</sup> OHRC Response to OPS Traffic Stops & Race Data, OHRC, November 2016

<sup>10</sup> Peel Police Use Force on Black People 3.2 times more than their share of the population, CBC News

<sup>11</sup> Hamilton Man Fears for his Life, The Spectator, October 5, 2022

<sup>12</sup> Police Taser Teen with Autism, The Toronto Star, September 9, 2022

<sup>13</sup> Thunder Bay Police Lacked Compassion, Turtle Island News, November 2, 2022

<b>Disproportionality Index: Use of Force vs. Hamilton Population</b>				
<b>Perceived Race</b>	<b>Total</b>	<b>% of Incidents (A)</b>	<b>% of Population (B)</b>	<b>Disproportionality Index (A) / (B)</b>
White	333	68.8%	74.4%	0.92
Black	83	17.2%	5.0%	<b>3.41</b>
Other	67	13.9%	20.5%	0.68
E/SE Asian	21	4.3%	6.1%	0.71
Indigenous	12	2.5%	2.2%	1.12
Latino	4	0.8%	2.0%	0.42
Middle Eastern	25	5.2%	4.0%	1.28
South Asian	5	1.0%	6.2%	0.17
<b>Total</b>	<b>483</b>			

**Interpreting the Disparity Index\***

- < 0.5 Under-representation
- > 1.5 Over-representation
- > 3.0 Gross Over-representation**

Census Profile, 2021 Census - Hamilton, Census division [Census division], Ontario and Ontario [Province] (statcan.gc.ca)  
40.8% The number of 'Confirmed Hamilton Residents'

Image from Hamilton Police Services Use of Force Report for 2022

Those with mental health issues are at least 3 to 5 times more likely to have a police-involved situation end in an arrest and detention, and less likely to be released from bail<sup>14</sup> <sup>15</sup>. Spending any amount of time in pre-trial custody not only greatly impacts mental health but can also affect the outcome of a case either before or at-trial, whether through the impressions of a jury, or inhumane prison conditions and extended pre-trial custody resulting in early guilty pleas.<sup>16</sup>

Police victimization and harassment has been associated with an increased risk of suicide: those who have been over-surveilled and harassed are 4x more likely to attempt suicide, while those who have faced physical or sexual assault/harassment from police are 10x more likely<sup>17</sup>.

While a common narrative is that bad police officers are few and far between – bad apples, so to speak – data suggests that issues with policing are more prominent, and systematically enforced through cultural norms in policing. One example of behaviour reinforcement is that police very rarely ever face consequences – even where they are found to have been horrendously negligent or violent. An example of this is Officer Eric Plummer, who received a court discharge after being charged for pushing an Indigenous man who was both suicidal and intoxicated, out of his wheelchair and kicked him in the face<sup>18</sup>. Fifteen officers attended court to support and congratulate Plummer. The incident is similar to the instance of Hamilton Police

<sup>14</sup> Mental Health and Contact with Police in Canada, 2012

<sup>15</sup> Broken Record: The Continued Criminalization of Mental Health Issues  
John Howard, 2021

<sup>16</sup> Justice and the Poor, National Council of Welfare

<sup>17</sup> Elevated Prevalence of Suicide Among Victims of Police Violence in the USA, New York Academy of Medicine, 2017

<sup>18</sup> Video Shows Calgary Officer Pushing Over Man put in Wheelchair, kicking him in the face, CBC News, December 2022



Sergeant Brian Wren receiving probation after violently and repeatedly stomping on the head of an Indigenous man, after the individual had already been subdued and was unconscious.<sup>19</sup>

As an abolitionist project we aren't and won't suggest there should have been harsher criminalization – however we do use these comparisons to underscore the vast differences in the way the law is often applied based on identity, or even utilized by both police and the courts to maintain a systemically ableist and racist status quo.

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<sup>19</sup> Hamilton Officer Pleaded Guilty to Assaulting Indigenous Man, CBC News, February 7, 2023

## COURTS AND BAIL

As part of the criminal legal system, courts are often perceived to be the place in which racial bias from police officers can be corrected. Judges particularly are held up by white society as impartial, and a certain amount of presumptive faith is given to their decisions or to justify their decisions. The perspective of impartiality, however, is incorrect. Any racial and ableist biases that exist within court staff – who are often white, often middle class, often neurotypical, and often previous police officers – or even jury members find their way into the courtrooms and legal decisions. The criminal legal system is rooted in racism and ableism, as laws have often been utilized to remove or “other” those who are racialized and disabled. In fact, up until 2019 jury pools in Ontario were selected only from those who owned property – mostly men, mostly white, mostly middle class, and mostly neurotypical and able-bodied individuals<sup>20</sup>. A few other examples of clearly racist behaviours by Judges are noted below.

- Judge Terry Clackson made racist remarks about a Nigerian medical examiner who was providing evidence in a case including criticizing their cultural norms, pronunciation, and body language. The Justice Council investigated but did not apply sanctions.<sup>21</sup>
- Bernd Zabel, a Judge in Hamilton ON, wore the notoriously racist, homophobic and transphobic “Make America Great Again” hat to court<sup>22</sup>
- In a single review hearing Supreme Court Judge Chief Justice Lamer made racist remarks about the Chinese community, the Roma people, and other marginalized communities<sup>23</sup>

### JUSTICE SYSTEM

How big a problem is racism within the criminal justice system?



Image borrowed from Blackness in Canada Policy Network (the Institute for Social Research)

According to a report by Legal Aid Ontario, there are also clear racial bias findings in sentencing<sup>24</sup>. Black, Indigenous, and disabled people are all more likely to be detained pre-trial, receive harsher sentences, and spend more time in custody to those who aren't Black, Indigenous, or disabled.<sup>25 26</sup>

- In 2015, Indigenous youth made up 1/3 of all pretrial detention, which is 5x their representation.<sup>27</sup>

<sup>20</sup> How A Broken Jury List Makes Ontario Justice Whiter, Richer, and Less Like Your Community, Toronto Star, 2018

<sup>21</sup> Alberta Judge Investigated for Racist Remarks Won't Face Sanctions; The Spectator, January 2023

<sup>22</sup> Canadian Judge who wore Trump Hat in Court Suspended for 30 Days; CBC News, September 2017

<sup>23</sup> Turning the Tables on RDS: Racially Revealing Questions Asked by White Judges, 2021 CanLII Docs 1675

<sup>24</sup> A Legal Aid Strategy for Bail, Legal Aid Ontario 2019

<sup>25</sup> Mehler-Paperny, 2017

<sup>26</sup> Kellough & Wortley, 2002

<sup>27</sup> Unequal Justice: Experiences and Outcomes of Young People in Ontario's Youth Bail System  
John Howard Society

- There are 4x more Black youth in pretrial detention than their community representation <sup>28</sup>
- There are 10x more Indigenous female youth in prisons than representative in the population <sup>28</sup>

These bail outcomes are a direct result of individual and systemic biases within courts and policing, and is responsible for the over-incarceration of Black, Indigenous, and disabled people.

Individuals with mental health issues, addictions and disabilities are also heavily over-represented in the criminal legal system, including the courts. Rates of mental illness in prison are up to 10x higher than in the general population, with those individuals more likely to be denied bail, and more likely to spend time in prison for simple summary offenses<sup>28</sup>. Some facilities – in particular in Northern Ontario – have population makeups that are 90% Indigenous where nearly 100% of individuals have some type of disability or addiction issue.<sup>29</sup>

One study offers at least some insight to these concerning statistics, finding that individuals regarded by police or the courts as “disrespectful” are more often charged, denied bail, and given custodial sentences. Taken at face value this means that behaviours such as speaking loudly, poor communication or comprehension skills, different body language, lack of eye contact, sudden body movements can all lead to a police officer or court seeing you as disrespectful (or a threat) when each one is often also attributed to individuals with different cultural or language identities, who have mental health or addictions issues, are disabled, or those who are neurodivergent.<sup>30</sup>

Pre-trial custody has severe and direct impacts on the health and development of an individual, as well as the outcomes of their cases. A youth experiencing incarceration – even short term while awaiting bail – had worse general health, mobility limitations, depressive symptoms and suicidal tendencies compared to individuals who first experienced incarceration later in life or not at all<sup>31</sup>. As well, a study by Justice Canada shows bail related issues lead people to pleading guilty, whether or not they are guilty<sup>32 33</sup>

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<sup>28</sup> A Legal Aid Strategy for Bail, Legal Aid Ontario

<sup>29</sup> Every Inmate at Kenora Jail has Addictions, Mental Health Issues: Human Rights Commissioner; CBC February 2017

<sup>30</sup> Justice and the Poor, National Council for Welfare

<sup>31</sup> Barnert, E. S., Abrams, L. S., Dudovitz, R., Coker, T. R., Bath, E., Tesema, L., ... & Chung, P. J. (2019)

<sup>32</sup> *Guilty pleas among Indigenous people in Canada*. Department of Justice Canada, Bressan, A., & Coady, K. (2017).

<sup>33</sup> Kellough, G., & Wortley, S. (2002)

## PRISONS

Historically, the shift from agrarian to industrialization also marked a shift from the responsibility of community care to individual freedom and liberty. With the shift to forced time away from home and family, we (collectively, as society) began the systematic institutionalization of those who were disabled and elderly in asylums, sanatoriums, and hospitals. As that social trend has continued through the decades – combined with dramatic reductions in state-provided support and resources – prisons are now the places that we (again, collectively as society) are sending people with addictions, mental health, and disabilities. Much of this is done at arms-length and perhaps unintentionally, through calling police about “abnormal” behaviour instead of enacting personal and community responsibility or by criminalizing houselessness and addictions.

*Tamara Lucier, 31, was arrested in December, 2021 on mostly minor charges. A Judge remanded her to custody while she awaited a long-term bed at a psychiatric facility, which would not be available until February.*

Some of it however is done very intentionally by the police, courts, and prisons themselves, as was the case with Tamara Lucier.

Conscious and unconscious biases as well as overt racism and ableism have directly led to the overincarceration of those who are Black, Indigenous, disabled, and poor. If we understand prisons to be overpopulated with Black, Indigenous, disabled, and poor individuals, then we also need to accept that the milieu which we allow or justify existing within prisons is a direct reflection of how society, collectively, feels about that population. If we feel differently, we have the responsibility to speak out, challenge, and dismantle the responsible systems.

Detention Centers, Jails, and Prisons throughout so-called Canada have horrendous conditions. In our research, we came across dozens of reports, studies, and interviews detailing general conditions, stories, and statistics.

### **The physical condition of prison are inhumane.**

Prisons are overcrowded, in some cases sleeping 3 or 4 individuals to a cell that was built for one, often leaving people to sleep on the floor beside the toilet. Air quality is poor, and often stagnant and damp, contributing to cases of pneumonia and rapid spread of infectious disease. It is too cold in the winter, and too hot in the summer. Many facilities have documented mold being present in and outside of the showers, as well as various pests including mice, rats, lice and bedbugs. The lighting is poor, and the prefabricated concrete, steel and Plexiglas construction of newer facilities means the acoustic environments are often disturbing and over-stimulating for everyone inside. Toilets, showers and phones often go unrepaired for long

### ONTARIO'S PRISONS ARE INHUMANE & Over Capacity

PRISON	BUILT FOR	CURRENT "CAPACITY"
EMDC	208	450
HWDC	~250	560
Niagara	124	260 - 300
SWDC	150	315
OCDC	176	585
Sudbury Jail	56	138
Thunder Bay	60	160
Monteith	84	232

**16 ONTARIO PRISONS HAVE INCREASED THEIR ORIGINAL CAPACITY <81% BY STACKING BEDS AND MAKING PRISONERS SLEEP ON THE FLOOR, IN OFFICES OR IN SHOWERS.**

stretches when broken, limiting hygiene and connection to the outside.<sup>34 35 36 44 37 38</sup>

**Facility staff have a culture of verbally or physically abusing prisoners and covering it up.** Correctional Officers (CO's) have been found to use force against prisoners unprovoked and while restrained – and cover it up through the falsification of records or evidence. CO's have been witnessed making fun of prisoners with mental health issues, or even their suicide attempts. Derogatory language is used towards prisoners, such as “waterheads” to describe someone with a mental health issue, or “slobs” and “lowlives” to describe prisoners in general, as well as racial slurs. There are reports of CO's making prisoners beg on their knees for toilet paper.<sup>39 39 40 41</sup>

*Soleiman Faqiri, 30, was arrested during a mental health crisis and was put in segregation at the Lindsay Supermax Jail while awaiting a bed at a psychiatric facility.*

*Eleven days after his detention, Soleiman was found dead.*

*A pathologist's report noted there were 50 bruises found on his body, due to blunt force impacts.*

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<sup>34</sup> Mikmaw Woman Dies of Pneumonia in Provincial Custody; March 2023, Halifax Examiner

<sup>35</sup> Her Brother Begged for MH Addiction Support in Prison; July 2022 CBC News

<sup>36</sup> Human Rights of Federally Sentenced Persons; June 2021, Standing Committee on Human Rights

<sup>37</sup> ODC Task Force Report, June 2016

<sup>38</sup> Inside TSDC: Toronto's 1-Billion Dollar Hellhole; Toronto Life, February 2018

<sup>39</sup> The Code: Investigation into MCSS & CSC response to allegations of excessive use against inmates Ombudsman, June 2013

<sup>40</sup> The Pains of Jail: Imprisonment at the Ottawa Carlton Detention Centre; Laura McKendy, 2018

<sup>41</sup> Report on Conditions of Confinement at Toronto South Detention Centre; OHRC

**There is rampant medical neglect, some of which has ended in death.** Since 2010 there have been more than 280 people who have died while imprisoned by the state, many of them preventable suicides,

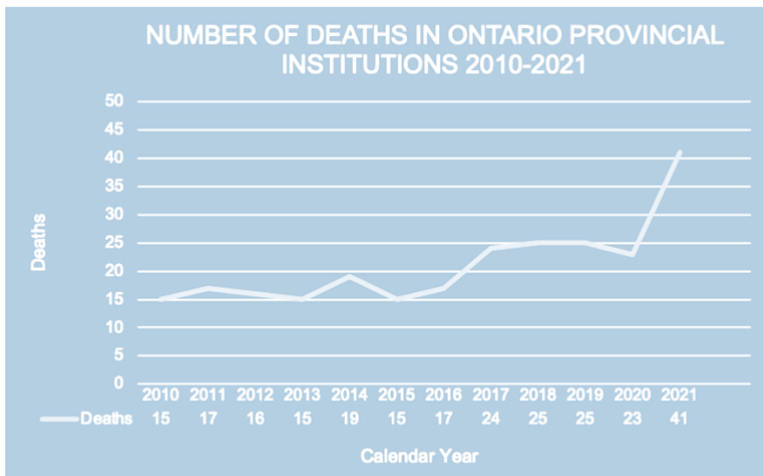


Figure 1: Deaths in Ontario Provincial Institutions 2010-2021

Graphic from the Tracking (In)Justice Project

overdoses, and cases of medical negligence. There are countless stories of prisoners being denied access to psychiatric care or medications – or likewise being overmedicated in some facilities. Serious issues with continuity of care when entering or exiting provincial facilities persists. The Ministry of Attorney General is responsible for funding and providing health care to provincial prisoners, not the ministry of health which incentivizes them to underserve. Access to medical and dental care is slow at best, often taking many weeks or months to address – if it ever is. The food is inadequate and heavily carbohydrate-based and special diets are hard to access for chronic health conditions.<sup>36 42 43 44 45 46</sup>

**Prison systems, and often prison staff, are ableist and cruel.** Prisons are inappropriate places for anyone with mental health or addiction issues, yet there is a gross overrepresentation of people with these issues in prison. Some estimates says that up to 79% of prisoners have mental health issues, and that 40% of prisoners will experience at least one major mental health crisis while in prison. It's estimated that in some facilities, people with addictions make up 70% of their population. Since mental health and addictions are often underreported by people entering the criminal system for their own safety, these numbers are likely an underrepresentation. Those with mental health issues are more likely to have force used against them by corrections officers (CO's), who also have been reported to instigate fights between prisoners, or between prisoners and staff. Prisoners with mental health and addictions issues are often made fun of, referred to using ableist slurs, and sent to "structured intervention units" (SIU). SIU's are *segregation repackaged* after the 2019 court decision that segregation in prisons was found to be a violation of the Mandela rules on torture. Structured intervention units serve the same purpose, and new guidelines around meaningful human contact, socialization, and access to showers and phones are disregarded by prisons every day. In a recent study, nearly 10% of prisoners in segregation miss out on 100% their out-of-cell hours every day, while 63% of long-term prisoners missed their out-of-cell time 76% of the

*Kinew James, 35, died in prison of a cardiac arrest due to hyperglycemia, and mismanaged diabetes. James' fellow inmates told Elizabeth Fry advocates Kinew had requested help multiple times in the lead up to her death. Corrections staff responded by muting her emergency button. Kinew James struggled to obtain an appropriate diet in prison for her diabetes.*

<sup>42</sup> Family Draws Attention To Health Care Challenges Behind Bars After Man Dies

<sup>43</sup> An Obligation to Prevent: Report from the Ontario Chief Coroner's Expert Panel on Deaths in Custody

<sup>44</sup> The Devil's Playground: A case study of EMDC, Nicole Kelly

<sup>45</sup> Family Demands Answers after Woman dies in Windsor, ON Jail While waiting for Psychiatric Help, CBC News, January 2022

<sup>46</sup> Fractured Care; John Howard, April 2018

time. On average, 70% of the segregation population are individuals who are legally innocent. CO's have been known to make fun of individuals who either attempt or successfully complete suicide. CO's have not been trained on how to communicate with prisoners who might be deaf or hard of hearing, or blind, and prisoners with mobility issues generally rely on their fellow prisoners for help getting around, if they get around at all. <sup>47 44 46</sup>

**Ableism is built into the institutions** and are often not physically accessible for anyone requiring mobility aids: Doorways are too small, there are steps, shower lips, no grab bars and cell sizes are too small to navigate. Security screening is not set up for mobility devices and other aids such as eyeglasses, so they are often removed from people upon entry, at least for a period of time. Bunk beds present issues to people who have injuries, physical disabilities, are older, bigger bodied, or pregnant. Mattresses – akin to the thin red gym mats of most people's grade schools – don't provide the proper support, or pressure point relief, sometimes creating other medical issues. Harsh chemicals and cleaners present burdens for those with multiple chemical sensitivities (MCS) and sensory overload often exhausts or disturbs those who are neurodivergent or who have certain mental illnesses. Those who may have learning or processing disorders are also at a great disadvantage. Prisons heavily rely on behavioural conditioning to avoid punishments like segregation, but many of those with traumatic brain injuries (TBI) or fetal alcohol spectrum disorders (FASD) can have neurological processes that can inhibit them from associating a behaviour with a consequence. Even the expectation that anyone serving a sentence in provincial custody must work in prison industries or receive discipline is ableist. <sup>48 49 50 51 52 53</sup>

**Prisons disable people further.** Air quality tends to be very poor, stagnant, and damp and has contributed to the development of pneumonia. Food quality is poor, often heavily based in refined carbohydrates which contributes to obesity, diabetes, poor cardiovascular health and even malnutrition and poor mental health. Fifty percent (50%) of prisoners over 50 have mobility issues, agitated by prison conditions. Mold and pests agitate allergies and lung issues. A lack of exercise or outdoor time impacts physical and mental health. Prisoners more often develop cardiovascular issues, diabetes, chronic infections, obesity, mental health issues, severe GI complications, and arthritis. There is very little "rehabilitative" programming – particularly in provincial prisons and detention centers – and little to no support for those with mental health issues or addictions. Opportunities to learn or update skills are rare, ensuring that prisoners being released from

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47 Solitary Confinement, Torture, and Canada's 'Structured Intervention Units'; Jane Sprott, Anthony Doob, 2021, Ryerson University

48 Sleeping on the Floor; Toronto Star, Matthew Tran

49 Paraplegic Describes Don Hell; 2010, Toronto Star

50 OCI Annual Report on Corrections, 2020, Ivan Zinger

51 Human Rights of Federally Sentenced Persons; June 2021, Standing Committee on Human Rights

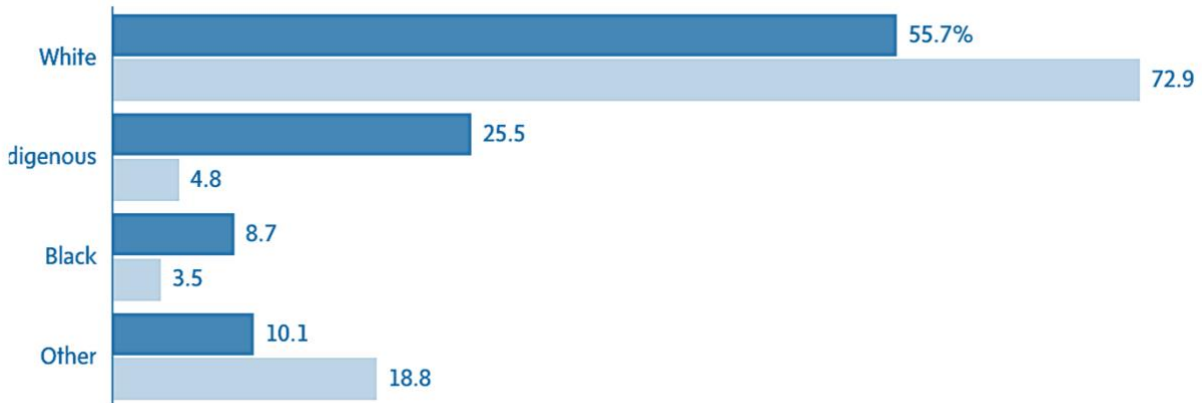
52 The Invisible Disability Caught in Canada's Prison System; Vice, May 2017

53 The prevalence and health status of people with developmental disabilities in provincial prisons in Ontario, Canada: A retrospective cohort study; June 2020, Lisa Whittingham et al

prisons are less-equipped to navigate the world than they were when entering prison.<sup>54 55 56 57 58</sup>

**Proportion of prisoners and Canadian population by race**

● Prison population in 2016 ● Canadian population



THE GLOBE AND MAIL, SOURCE: CORRECTIONAL SERVICE OF CANADA, STATISTICS CANADA

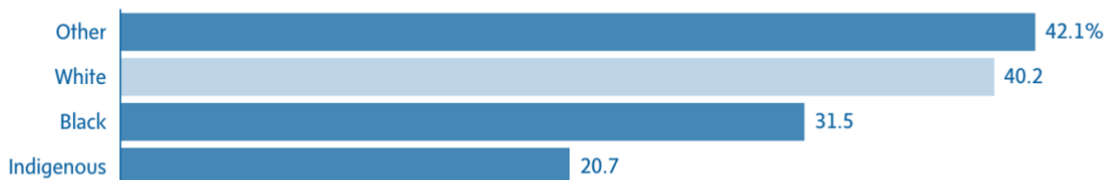
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**Racism is ingrained, systemically and individually, in prisons and has been from the very start.** Prison and the criminal legal systems are carceral, punitive and based wholly on white/colonizing forces ideas of “justice” and “rehabilitation”. There is no reliable consideration for the culture or historical context of those within the system who are not white. Everything from what is “abnormal” behaviour to what is “legal” and “illegal” to how and when police enforce laws to how the court and prison system sees people are built on a white/colonial understanding. For example, an Indigenous person defending their unceded land is criminalized instead of the corporation attempting to develop it, even where Indigenous title is recognized by colonial law.

There might too be a tendency to see an Indigenous person’s criminalized behaviour as a wholly personal choice, instead of considering present and historical factors that led to it: the forced disconnection of lands, culture and family, introduction of alcohol by colonists at the same time as these forced removals, extreme poverty, and food insecurity (often as a direct result of colonial practices or extractive industry), and more.

**Percentage of prisoners serving out their sentences in the community in their first year of eligibility**

From 2014 to 2018



THE GLOBE AND MAIL, SOURCE: CORRECTIONAL SERVICE OF CANADA, GLOBE ANALYSIS

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<sup>54</sup> Intellectual Disabilities Among people incarcerated in federal correctional facilities in Ontario, JARID

<sup>55</sup> Gaps in Mental Health Care Behind Bars Persist 4 Years after NB Auditor General Report

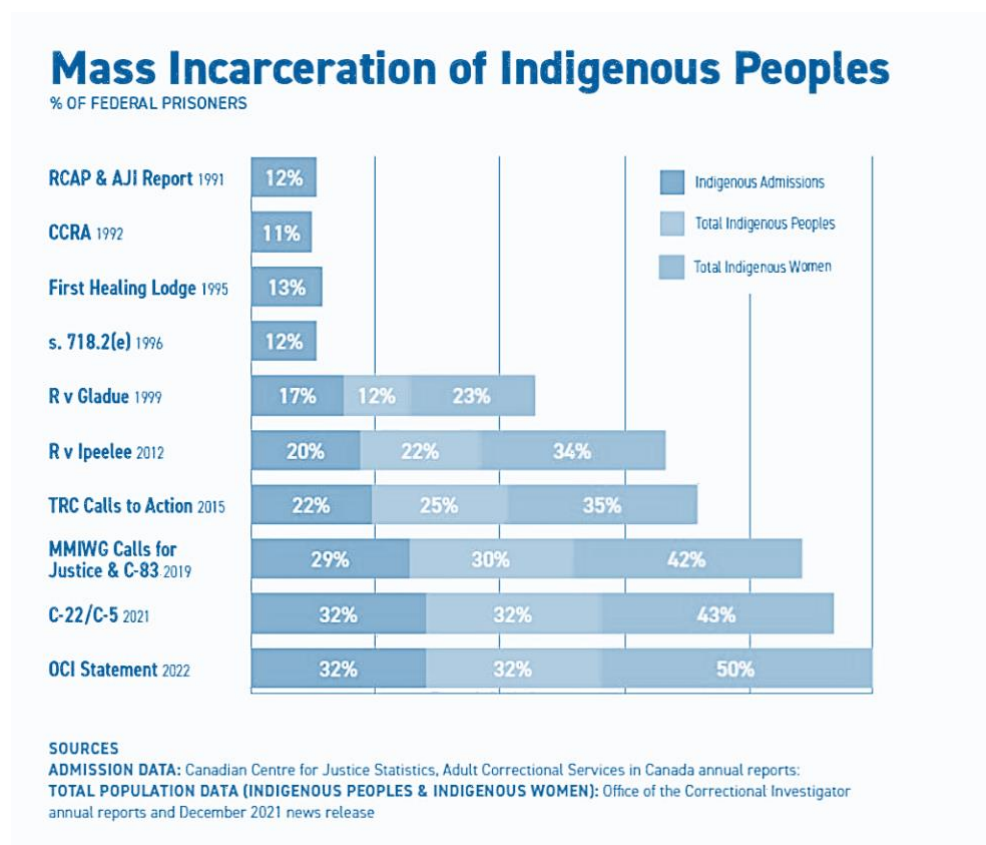
<sup>56</sup> Solitary Confinement; John Howard, February 2017

<sup>57</sup> Raising Awareness of Persons with Disabilities in Canadian Federal Corrections; Lawrence Motiuk

<sup>58</sup> Aging & Dying in Prison; Office of the Correctional Investigator



While Gladue reports, and more recently special court reports for Black Canadians, exist as attempts to counter the racism within the criminal legal system, they have failed to work as intended. Reports are often either inaccessible financially or time-wise, or end up being used to justify a person's incarceration or security status. Those who are Black, Indigenous or disabled are still more likely to be put on remand, often spend more time in prison, and are less likely to receive parole.



Some of this has to do with the racism built into prison policy. For example, the SAFER assessment scores each prisoner and directly impacts what range you're placed on, and is used in the parole process. It is also built on white Eurocentric understandings of "healthy" families, communities, and communication. Another example is that postal codes are used in risk assessments for jobs or skills programs. If you live within a postal code in which a gang is known to operate, you are automatically assumed to be higher risk as a prisoner and denied access to some programs. As well, Muslims and Sikh's tend to face religious discrimination and racism when attempting to access religious materials, diets, or participate in religious holidays. For example, prison staff will often not accommodate fasting schedules associated with Ramadan. As well, Indigenous prisoners have little access to elders, and often have their medicine bundles needlessly searched before logging them into evidence or property.<sup>59 60 61 62 63 64 65 66</sup>

There is no possible reformation for racism so embedded; abolition is the only solution.

<sup>59</sup> Race & Incarceration: The Representation and Characteristics of Black People in Provincial Corrections Facilities in Ontario, Canada; SAGE Journals, Akwasi Owusu-Bempah

<sup>60</sup> Every Inmate in Thunder Bay, Kenora has Mental Health, Addictions Issues

<sup>61</sup> Officials Must Understand why inuit overrepresented in jails; Jan 19, 2023

<sup>62</sup> Unequal Justice Excerpt; John Howard Society

<sup>63</sup> Inmates, Advocates Sound Alarm Over Pilot Program; June 2022, CBC News

<sup>64</sup> Bias Behind Bars: A Globe & Mail Investigation finds Prison System Stacked Against Black & Indigenous Inmates, Globe & Mail, October 2020

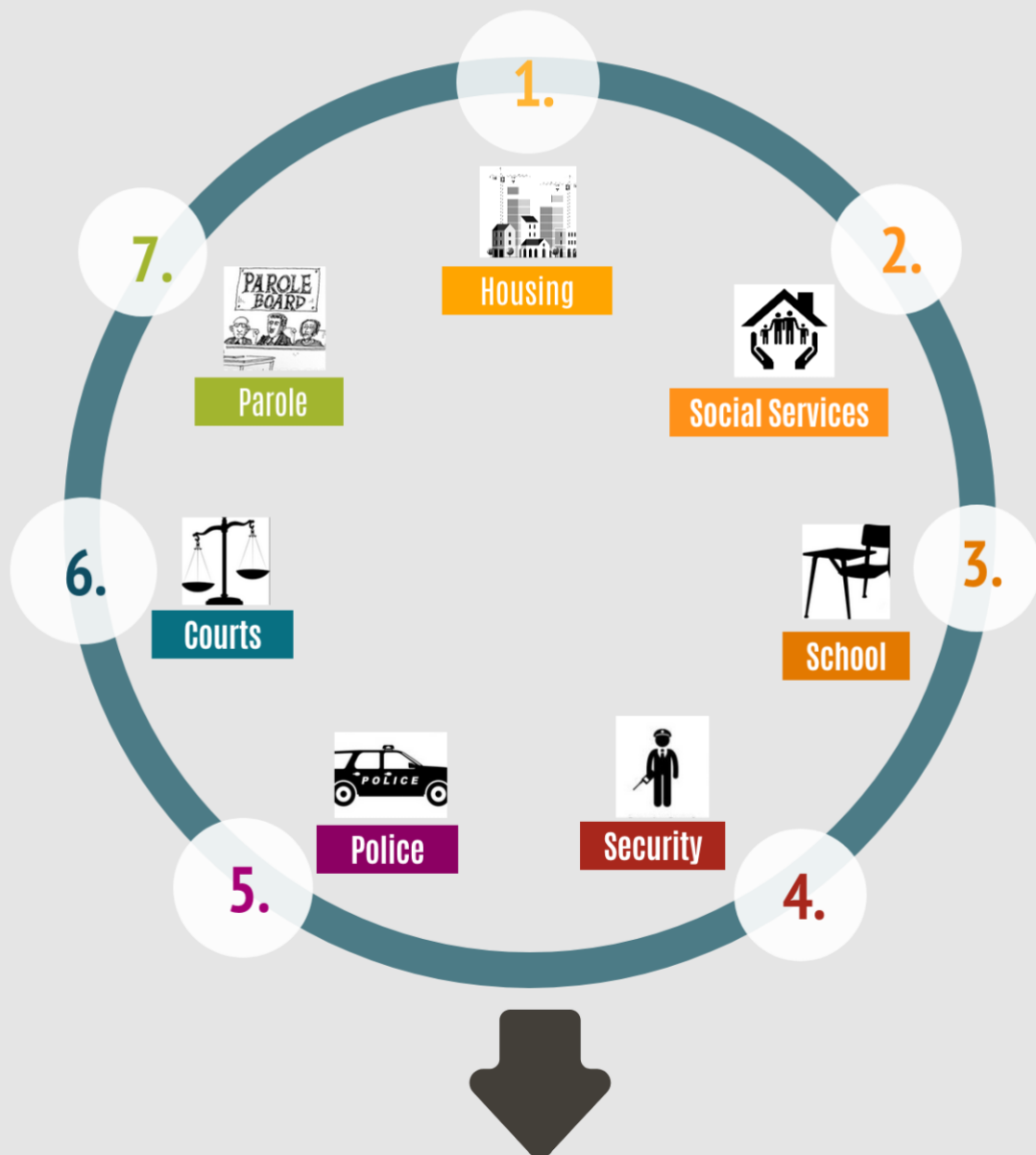
<sup>65</sup> (In)Justice: An Exploration of the dehumanization, victimization, criminalization and over-incarceration of Indigenous Women in Canada; Michaela McGuire & Danielle Murdoch, Simon Fraser University

<sup>66</sup> Racialized Prisoners in Canada get fewer chances at parole than white prisoners; The Globe & Mail, 2022

# Implicit Racism & Ableism

## That Puts Racialized & Disabled People in Prison

DJNO has launched a new project looking at the experiences of racialized and disabled people in prison. Part of this project has been assessing different factors that contributed - or directly results - in putting those individuals there in the first place.



## Housing:

Landlord bias and racism can keep racialized or disabled people houseless, living in poor conditions, or being exploited. Gentrification mostly displaces poor, racialized and disabled people. People leaving prisons have often lost their housing and are released houseless and without supports, leading to survival "crimes".

## Social Services:

Bias & racism in social workers and foster families means racialized children are more often removed from their homes, and more likely to have police called if there is a behavioural issue. Agencies working directly with police often result in the targetted surveillance of racialized and/or disabled children, youth and families. Disabled individuals often end up in, or staying in, prisons due to shortage of supportive living programs.

## Schools

Staff are more likely to see racialized youth as "aggressive" and suspend or expel them over white youth exhibiting the same behaviours. Counsellors are more likely to report "tensions at home" to CAS in the cases of black students. Staff are more likely to call police on students who are black or disabled. A lack of appropriate ethnic or educational supports mean disabled and racialized students more often leave or are kicked out of school.

## Security

Security guards more often target racialized individuals for surveillance and are more likely to have police to lay formal charges for theft or "problem behaviour" if the offender is racialized. Behaviour of racialized youths is more likely to be seen as "problematic" than the same bahviour as white youth.

## Courts

Racizlied and/or disabled people are more likely to be denied bail. They are also more likely receive longer sentences, and are less likely to qualify for parole when compared to similar offenses by white people. Juries, until 2019, were selected based on property ownership, making them mostly upper to middle class white people - not a jury of peers.

## Police

Racism & ableism result in the oversurveillance of racialized and poor communities including traffic stops, carding & street checks. Police are more likely to formally charge racialized and/or disabled individuals and keep them for bail hearings instead of using extrajudicial measures. They are also more likely to use force against racialized & disabled people, sometimes resulting in injury or death.

**The Hypersurveillance** of any community is likely to result in criminal findings. The fact that police - especially community policing teams - focus their efforts on communities that are poor, and often comprised of people who are racialized and/or disabled instead of white suburban neighbourhoods means they're making a decision about who to charge.

**Intergenerational Trauma** is adverse trauma that impacts the following generation(s). Intergenerational trauma makes individuals/families more likely to have difficulty with attachment, disconnection from families/culture, and high levels of stress or coping with emotional load. Each factor individually can result in the development of chronic illness and increase the likelihood of developing behaviours seen as criminal.

**Poverty** is a significant risk factor for developing a mental health disability, and people with mental illness often live in chronic poverty. **Generational Poverty** is lifelong, reinforced through systemic means and is impossible to escape without outside intervention. It's associated with developmental issues, restricts access to healthcare and supportive education, and makes post-secondary education - and thus living wage work - inaccessible. Racism and ableism means Black, Indigenous and poor people are more likely to experience generational poverty, as well as making it harder to escape. Poverty is associated with various criminal behaviour, including survival crimes, and criminal records further enmesh a cycle of poverty.

**Children removed from their homes** are more likely to become involved with the criminal justice system both as youth and adults than those who were allowed to stay in their primary homes with additional supports. Charges are substantially administrative; results of missing curfews or not following (often arbitrary) house rules. Social workers are more likely to report the behaviour of racialized youth than non-racialized youth.