



# MAKING REAL CHANGE HAPPEN FOR AFRICAN CANADIANS

**Report of the African Canadian Legal Clinic to the CERD  
(93<sup>rd</sup> Session, 2017)**

*Promoting Justice, Defending Equality, Building Community*

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## **I. Introduction**

The African Canadian Legal Clinic (ACLC) is a community-based not-for-profit organization established in 1994 in Toronto, Canada. The Clinic is mandated to combat anti-Black racism. The ACLC's mandate allows for meaningful opportunities to advocate for law reforms to the benefit of African Canadians. The ACLC also engages in: (1) advocacy against systemic and institutional discrimination and anti-Black racism within legislative, regulatory, and administrative fora, (2) community development initiatives for African Canadian men, women, and children in the areas of criminal justice, employment, and education and (3) public legal education.

Despite its provincial mandate, the ACLC has an experiential understanding of racial issues across municipal, provincial and national locales. Through its work, the Clinic maintains a strong collaborative relationship with the Black community and provides the community a voice in national conversations about anti-Black racism, social justice, equity, and civic participation.

As an organization designed to help eliminate anti-Black racism and discrimination in Canadian society, the review of Canada by the Committee on the Elimination of Racial Discrimination (CERD) at its upcoming 93<sup>rd</sup> session provides an opportunity for the ACLC to engage in a vitally important forum to address the issues of the African Canadian community. The ACLC is pleased to offer an alternative perspective on Canada's inaction since the previous session (80<sup>th</sup> session, 2012) through this Shadow Report.

Article 1 of the CERD defines "racial discrimination" as "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."<sup>1</sup> The overarching contention advanced herein is that, while Canadians are theoretically held in equal standing by Canada's federal, provincial and municipal laws, regulations and policies, the actual lived experiences of African Canadians fall short of this standard of equality.

The upcoming 93<sup>rd</sup> session is particularly meaningful to the ACLC. Canada has experienced a leadership transition since the previous session from Stephen Harper's Conservative administration (2006-2015) to the current Liberal administration under Prime Minister Justin Trudeau. These two administrations harbour vastly different perspectives on issues of race, equity, and inclusion. The change in Federal leadership introduces hope for commendable discursive progress and symbolic outreach. However, the ACLC has, at present, seen insufficient investment in substantive initiatives to deliver sustainable social, civic, and cultural growth within Canada's Black community.

Canada's State Report to the Committee for the upcoming session carries substantial surface appeal. It presents well and sounds promising. Despite this, it is at times vague and lacking in substance. While we recognize that the Federal government cannot realistically address every

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<sup>1</sup> Office of the United Nations High Commissioner for Human Rights, "International Convention on the Elimination of All Forms of Racial Discrimination" enforced 1969, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx>

single CERD recommendation in the 5 years between review sessions, we are troubled that multiple recommendations since 2002 concerning African Canadians were not considered at all.

This report discusses multiple areas of critical concern to African Canadians, several of which remain unaddressed by the Canadian Government in its report. The following areas of concern are discussed in this report: (1) Child Welfare; (2) Education; (3) Policing; (4) Criminal Justice and Corrections; (5) Immigration; and, (6) Poverty and Employment. Despite positive rhetoric from the new government, the experiential status quo in these areas is stagnant at best for Black people living in Canada.

This report provides a statistical synopsis across these different areas in order to illuminate specific problems for the African Canadian community. It then discusses how the incumbent policies in these areas interact with and ultimately contravene certain Articles of the Convention to which Canada has pledged adherence. Finally, it provides specific examples of particularly egregious incidences of mistreatment of Black men, women, and children to better illustrate how the incumbent regulations and policies in these areas fail the African Canadian community, despite their intended neutrality.

Throughout this report, one overarching theme becomes clear: Canada has been relatively effective at repealing, amending, and replacing inherently discriminatory legislation and policies at all levels of government; however, the current legislative and social frameworks become differential in their application and impact as a result of their failure to consider the pervasive social deficits to which African Canadians are subjected.

The current task is unpacking the relationship between the Convention, Canadian legislation, and policies and the social realities of Canada's racialized communities. The African Canadian community is demonstrably depressed vis-à-vis other communities by essentially every meaningful metric in terms of its social, civic, cultural, and economic health. This is not acceptable and the African Canadian community deserves better as one of the 4 founding peoples of what is now known as Canada.

The CERD sessions are of paramount importance to the ACLC because, while Canada is a wonderful country, its Black community is hurting. It has been hurting for centuries and it will continue to hurt without formal recognition of the historical and persistent damage of slavery, segregation, and anti-Black racism. Pain, however, is symptomatic: African Canadians need and deserve a cogent, Black-focused plan with sustained governmental commitment and funding to address the causal factors responsible for this pain.

In its inaugural Speech from the Throne (2015), the Trudeau government pledged to "Make Real Change Happen."<sup>2</sup> The ACLC endorses this sentiment, but expects to observe substantive progress to match this optimistic rhetoric. Our government must work towards a Canada whose different communities are experientially Canadian, not just nominally or rhetorically so.

The purpose of this report is to articulate how anti-Black racism persists in Canada systemically and institutionally, and how it influences the Canadian psyche and impacts the actions of state

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<sup>2</sup> David Johnston, "Speech from the Throne to Open the First Session of the Forty-second Parliament of Canada, "December 4, 2015. <https://www.canada.ca/en/privy-council/campaigns/speech-throne/making-real-change-happen.html>

and institutional actors including judges, police, immigration officers, prosecutors, healthcare workers, and teachers, among others. No one is immune to racist thoughts or beliefs, whether overt or subconscious. Until we understand how Canadian institutions perpetuate discriminatory anti-Black thought patterns through culturally-biased and epistemically subversive education, we cannot evolve towards a more integrated, holistic Canadian experience for African Canadians.

## II. Summary of CERD Recommendations to Canada, 2012<sup>3</sup>

This section briefly summarizes the recommendations from the Committee to Canada that are relevant to the African Canadian community. There has been minimal action towards recognizing and realizing these recommendations to a tangible effect for African Canadians. The ACLC opts to re-emphasize these recommendations, which we wholly endorse. The issues addressed by these recommendations, and the recommendations themselves, are still relevant to improving the Black experience in Canada. The Government of Canada must recognize these recommendations in addition to the subsequent recommendations that will emerge from the 93<sup>rd</sup> session.

- **Recommendation 7:** “In accordance with paragraphs 10 to 12 of its revised reporting guidelines (CERD/C/2007/1), the Committee reiterates its previous recommendation that the State party collect and, in its next periodic report, provide the Committee, with reliable and comprehensive statistical data on the ethnic composition of its population and its economic and social indicators disaggregated by ethnicity, gender, including on Aboriginal (indigenous) peoples, African Canadians and immigrants, to enable the Committee to better evaluate the enjoyment of civil, political, economic, social and cultural rights of various groups of its population.”
- **Recommendation 8:** “The Committee reiterates its previous recommendation that the State continue to keep under review, in line with article 1 of the Convention, the implications of the use of the term ‘visible minorities’ in referring to ‘persons, other than Aboriginal peoples, who are non-Caucasian in race and non-white in colour’ (Employment Equity Act, 1995), so as to address more precisely the socio-economic gaps between different ethnic groups.”
- **Recommendation 9:** “The Committee recommends that the State party take appropriate measures to strengthen the coordination of all existing federal and provincial mechanisms in order to remove discrepancies and disparities in the implementation of anti-racism legislation, policies, programs and best practices, and to ensure the enjoyment on an equal footing within all provinces and territories of the rights set forth in the Convention, including by adopting, when necessary, new federal laws.”
- **Recommendation 11:** “Recalling its General Recommendation no. 34 (2011) on racial discrimination against people of African descent and in light of its General Recommendation no. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee reminds the State party that racial profiling should be prevented at all stages of criminal procedure. The Committee recommends that the State party:
  - (a) Take necessary steps to prevent arrests, stops, searches and investigations and over-incarceration targeting different groups, particularly African Canadians, on

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<sup>3</sup> Committee on the Elimination of Racial Discrimination, “Consideration of reports submitted by States parties under article 9 of the convention, Canada.” *CERD*. (March 9, 2012) p. 1-8

the basis of their ethnicity;

- (b) Investigate and punish the practice of racial profiling;
  - (c) Train prosecutors, judges, lawyers, other judicial and police officers in the criminal justice system on the principles of the Convention;
  - (d) Provide the Committee with statistical data on treatment of African Canadians in the criminal justice system;
  - (e) Conduct a study on the root causes of the overrepresentation of African Canadians in the system of criminal justice.”
- **Recommendation 13:** “The Committee remains concerned: a) by the refusal by the State party to introduce in its legislation a specific offence criminalizing and punishing acts of racist violence; and b) at the State party’s approach to prohibit racist activities of racist organizations rather than prohibiting and declaring illegal such organizations (art.4).
    - Recalling its General Recommendations nos. 1 (1972), 7 (1985) and 15 (1993) according to which article 4 is of a preventive and mandatory nature, the Committee reiterates its previous recommendation that the State party amend or adopt relevant legislation in order to ensure full compliance with article 4 of the Convention.”
  - **Recommendation 16:** “Recalling its General Recommendation no. 34 (2011) on racial discrimination against people of African descent and in light of its General Recommendation no. 32 (2009) on the meaning and scope of special measures in the International Convention of All Forms of Racial Discrimination, the Committee recommends that the State party take concrete specific measures to foster the effective integration at federal, provincial and territorial levels of African Canadians into Canadian society by effectively ensuring the implementation of its non-discrimination legislation, in particular the Federal Employment Equity Act, and policies regarding access to employment, non-discriminatory wages, housing, and public service. The Committee also recommends that the State party strengthen its special measures to increase the level of educational attainment of African Canadian children in particular by preventing their marginalization and reducing their drop-out rates. The Committee requests that the State party provide it with information on specific measures taken as well as on their concrete results.”
  - **Recommendation 22:** “The Committee recommends that the State party increase its efforts to fully recognise the achievements and the contributions of the African Canadian community to the history of Canada. The Committee encourages the State party to ensure that the bicentennial celebration of the War of 1812 also reflects the contributions and role of African Canadians.”



### III. Child Welfare

The disproportionate apprehension of Black children by the child welfare system is endemic in the African Canadian community. Race factors strongly in an individual's sense of self-worth and is shown to be influential in their psychological wellbeing.<sup>4</sup> Black parents must *actually be allowed to parent* their children. This helps protect Black youth from the institutional discrimination they will undoubtedly face and assists children in developing a strong sense of self.

In the province of Ontario, the Ontario Association of Children's Aid Societies (OACAS) provides Children's Aid Societies (CAS) across different municipalities. CASs have the "legal responsibility to provide child protection services" to Ontario families and assist them in maintaining the family unit.<sup>5</sup> The OACAS is afforded this responsibility exclusively and its mandate is established within the *Child and Family Services Act*.<sup>6</sup> Despite this, the OACAS and individual Cass are just agents. The child welfare system is regulated by the Ministry of Children and Youth Services (MCYS) and administered by the Child Welfare Secretariat. Therefore, while the OACAS is tasked with developing the organizational structure of individual CASs, special attention should be paid to the MCYS' and the Secretariat's policies, regulations, and programming.

There must be a review of both the physical application of child welfare policies by different CASs, but also of the policies themselves as outlined by the MCYS and the Child Welfare Secretariat. Despite being neutral in its wording, the OACAS' mandate is applied differentially to different communities. While the OACAS recognizes that "families often face issues such as poverty, addiction, unemployment, mental health challenges and inadequate housing, all of which can create added stressors and complications that can affect their ability to care for their children,"<sup>7</sup> its vaguely worded acknowledgement stops short of recognizing that the African Canadian community is disproportionately affected by these stressors.

In dealing with African Canadian children and parents, the CASs too often use these aforementioned stressors to justify child apprehension. As an organization mandated to "protect infants, children and youth" to "provide help to families who want some extra support and assistance," and to act in the best interest of the child,<sup>8</sup> the OACAS' focus should be on helping families address these stressors and not removing the child from the care of their parents. Canada is not a country that requires parents to earn a certain amount of money in order to have children. Some parents need assistance in providing for their children, not the child's apprehension.

The OACAS's mandate is sound in principle. In theory, "great emphasis is placed on ensuring that children can stay with their families and be safe and thrive."<sup>9</sup> In practice, however, this

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<sup>4</sup> Stephanie J. Rowley et al., "Perceived Racial Discrimination and Self-Esteem in African American Youth: Racial Socialization as a Protective Factor." *Journal of Research on Adolescence*, 14(4) (2007) 669-70, 678

<sup>5</sup> Ontario Association of Children's Aid Societies, "About Children's Aid Societies," OACAS, 2015. <http://www.oacas.org/childrens-aid-child-protection/about-childrens-aid-societies/>

<sup>6</sup> Ibid (RSO 1990, c C11)

<sup>7</sup> ibid

<sup>8</sup> ibid

<sup>9</sup> ibid

emphasis is reserved for the exclusive enjoyment of children and families who are not Black or Indigenous.

### Quantitative Analysis

The incumbent child protection practices have operationally ensured the dissolution of Black families. Despite comprising 8.5% of Toronto's population, Black children and youth account for 40.8% of children apprehended by the Children's Aid Society of Toronto (CAST) and placed in care.<sup>10</sup> This disparity is linked to the fact that African Canadian parents are 40% more likely to be investigated for child maltreatment compared to White parents, and that Black children are more likely to be removed from their homes during these investigations.<sup>11</sup> While there is minimal disaggregated information on maltreatment rates in Canada, 3 national studies from the United States studies reveal "no difference between maltreatment rates" for Black children vis-à-vis White children.<sup>12</sup>

### Why does this happen?

A prevalent issue in maltreatment reports is the primary referral source of these complaints. Child welfare agencies often rely on professionals, including "teachers, police, and medical practitioners" for referrals.<sup>13</sup> These individuals are rarely equipped with the youth-oriented and cultural competency training needed to assess a child's well-being. Additionally, the biases that exist within these institutions (which will be discussed in more detail in subsequent sections) can permeate into their analysis of a particular child and thus vicariously impact the child welfare system.

For example, a study from Quebec revealed that Quebec youth of Haitian origin are twice as likely as White French Canadian youth to be reported to the child protection system.<sup>14</sup> However, while White French Canadian children were primarily referred by immediate or extended family, Haitian youth were referred primarily by education or healthcare professionals.<sup>15</sup> This strongly reflects a sentiment expressed by those responding to the African Canadian community's initiative, entitled "One Vision One Voice" (OVOV), that emphasized a need for caseworkers and other professionals to "view cultural differences as differences rather than deficiencies."<sup>16</sup> A commonly-cited example of this misinterpretation of cultural difference is the reporting of Black parents to the CAS "because their children eat non-western foods that are specific to their culture."<sup>17</sup> By penalizing, misrepresenting, and often criminalizing the differences between cultures, the child welfare system is essentially acting as a mechanism for cultural assimilation of Black families.

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<sup>10</sup> Kike Ojo, "One Vision One Voice: Changing the Ontario Child Welfare System to Better Serve African Canadians- Practice Framework Part 1: Research Report." *Ontario Association of Children's Aid Societies*. September 2016. Page i

<sup>11</sup> Ibid, 22

<sup>12</sup> Ibid, 23

<sup>13</sup> Ibid, iv

<sup>14</sup> Ibid, 26

<sup>15</sup> Ibid, 27

<sup>16</sup> Ibid, 70

<sup>17</sup> Ontario Human Rights Commission, "Under Suspicion: Research and consultation report of racial profiling in Ontario." *OHRC*. April 2017. 56.

[http://ohrc.on.ca/sites/default/files/Under%20suspicion\\_research%20and%20consultation%20report%20on%20racial%20profilin%20in%20Ontario\\_2017.pdf](http://ohrc.on.ca/sites/default/files/Under%20suspicion_research%20and%20consultation%20report%20on%20racial%20profilin%20in%20Ontario_2017.pdf)

### Qualitative Analysis

In addition to grossly disproportionate quantitative discrepancies across youth in care, African Canadian youth also report alarming qualitative differences in the care itself. In particular, the “lack of culturally appropriate services” inhibits their ability to develop a cultural identity.<sup>18</sup> This largely derives from the fact that the child welfare system is often seen to “prioritize [a child’s] physical well-being over their cultural, emotional, and mental well-being.”<sup>19</sup> The organizational infrastructure of CASs treats children like puzzle pieces to be arranged without any regard for the broader picture, rather than as human lives to be nurtured.

One of the respondents to the OVOV study lamented that group homes employ individuals without proper youth training, who then “treat [Black youth] like gangsters and then wonder why [they] have so much anger.”<sup>20</sup> Earlier this year, the Ontario Human Rights Commission (OHRC) published “Under Suspicion,” a report that details racial profiling in Ontario. Respondents noted that “child welfare workers often seek out police to accompany them when making home visits to Black families.”<sup>21</sup> Ryerson Professor of Social Work Gordon Pon and colleagues perceived this as being “based on irrational fears around safety, which leads to these families being viewed as criminals.”<sup>22</sup>

This understanding deficit that exists between child protection professionals and African Canadian families fundamentally undermines the ability of our youth to grow, learn, and feel comfortable with their place in society.

The current practices of the OACAS and other Children’s Aid providers in Canada do not account for socio-economic and cultural differences held by the Black community. These organizations employ an ostensibly neutral mandate to disproportionately apprehend Black children. The CASs discriminate against African Canadian families and children, as is demonstrated by the discrepancies in apprehensions and differential experiences of African Canadian youth once in care

### Contravention of the CERD in Child Welfare

The ACLC submits that Canada’s inaction in addressing these discrepancies is in contravention of the following articles of the CERD:<sup>23</sup>

- **Article 2(1)(c):** Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists

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<sup>18</sup> Ojo, “One Vision One Voice,” 22

<sup>19</sup> Ibid, iv

<sup>20</sup> Ibid, 68

<sup>21</sup> Ontario Human Rights Commission, “Under Suspicion: Research and consultation report of racial profiling in Ontario.” OHRC. April 2017. 56

<sup>22</sup> Ibid

<sup>23</sup> Office of the United Nations High Commissioner for Human Rights, “International Convention on the Elimination of All Forms of Racial Discrimination” enforced 1969, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx>

- The data clearly demonstrate that the current child welfare framework “creates and perpetuates racial discrimination.” Despite this, there has been minimal effort from governments at any level of Canadian politics to implement new regulations that will better understand and assist African Canadian families.
- **Article 2(2):** States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.
  - Through its ratification of the CERD, the Government of Canada has agreed to take special measures when necessary to protect certain racial or ethnic groups. As the information above indicates, the state of child welfare is in crisis for African Canadians. Inaction thus far contradicts the Canadian government’s commitment to this protection.
- **Article 4:** States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention
  - While Canada’s child welfare system may not *explicitly* operate on a platform of ideological or theoretical superiority of one particular race or culture, its policies in effect discriminate against ideologies and cultures whose practices differ from the dominant Eurocentric ideology and culture. Prominent examples include punishing parents for the ‘wrong’ types of food and assessing single-parent and largely poor families as inherently inferior parents, rather than different.
- **Article 7:** States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and this Convention.
  - A persistent issue in the child welfare system is the misinterpretation of cultural differences as shortcomings. This misinterpretation manifests in the over-apprehension of Black children by CASs. In order to honour its commitment to upholding the United Nations charter and to promoting understanding, tolerance, and friendship among nations and racial or ethnic groups,” provincial and territorial governments must make a sustained effort to cultural competency training for child protection agencies.

**Recommendations for Child Welfare:**

- 1) The ACLC calls for the establishment and sustained funding of an African Canadian Child Welfare Intervention Service through the Ministry of Children and Youth Services (MCYS) in the Province of Ontario. This is to address and reduce the high rate of Black children taken into care. Similar agencies and services should be established in each of Canada's provinces and territories in accordance with their provincial equivalents.
- 2) The ACLC recommends the allocation of money from Canada's Poverty Reduction Strategy to assist children's aid organizations in assisting parents and children living below the poverty line. Child welfare organizations must stop punishing poverty and begin working with parents and children to ease the burden that poverty inflicts.
- 3) The ACLC encourages the establishment of a Special Advisor for African Canadian Children within the ministry in each provincial and territorial government responsible for Child Welfare in the provinces and territories with the highest concentration of African Canadians (in particular, Ontario, Quebec, Nova Scotia, and Alberta).
- 4) The ACLC adopts the Working Group's Recommendation that the Government of Canada take effective measures to address the root causes of over-representation of African-Canadian children in child care institutions. All efforts should be taken to keep the family together. Alternatives to taking the child away from the parents should be considered, including counselling, parenting programs, and kinship care. Training for child welfare staff should include strengthening cultural competency to better serve African Canadian communities.

## IV. Education

Education is presented second because of its importance in shaping how children conceive of themselves and Canada, and in how they learn to interact with the world around them.

We commend the Toronto District School Board (TDSB) for collecting comprehensive disaggregated, race-based data regarding student body demographics, educational attainment and student discipline. This is a *first step* that reveals where the deficits exist; the next step is developing an action plan to address and ameliorate these deficits.

The major concerns for Black youth in the Canadian education system are both quantitative (test scores, graduation/drop-out rates, suspensions, expulsions, etc.) and qualitative (hostile learning environments, low teachers expectations, etc.). It is difficult to learn educational and behavioural principles when your teachers and principals do not believe you have the ability to learn.

### Academic Performance

#### Toronto District School Board

Relative to the overall TDSB student population, students that ethnically identify as “Eastern and Western African” performed lower on the Education Quality and Accountability Office (EQAO) examination for Grade 6 students in the areas of reading and writing, and performed considerably lower in mathematics.<sup>24</sup> Black students with Caribbean or Canadian-born parents under-performed in all areas of the examination, and performed particularly poorly in the field of mathematics.<sup>25</sup>

At the secondary school level, students who ethnically identify as Eastern and Western African performed below the provincial average on the Ontario Secondary School Literacy Test (OSSLT) and in Grade 10 credit accumulations.<sup>26</sup> Caribbean and Canadian secondary students performed at an even lower level.<sup>27</sup>

#### Halifax Regional School Board

The issue of sub-standard academic performance for African Canadian children is national. For example, the Halifax Regional School Board (HRSB) provides ethnically disaggregated data on academic performance. These are presented below.

The percentages listed indicate the number of students who meet or exceed the expected level of performance from each group. The term “HRSB” refers to the average attainment across all

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<sup>24</sup> Toronto District School Board (TDSB), “Census Portraits: Understanding our Students’ Backgrounds.” TDSB Ethno-Racial Series: Black Students Report. June 2015 [http://www.tdsb.on.ca/Portals/research/docs/reports/Portrait\\_Census2011-12\\_Black\\_FINAL\\_report.pdf](http://www.tdsb.on.ca/Portals/research/docs/reports/Portrait_Census2011-12_Black_FINAL_report.pdf) (2016) 6

<sup>25</sup> Ibid

<sup>26</sup> ibid

<sup>27</sup> Ibid

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HRSB students, whereas the term “Black students” refers only to students of African descent within the HRSB. All data are made publicly available by the HRSB.<sup>28</sup>

	Grade 3 Reading Comprehension	Grade 3 Writing Ideas	Grade 3 Writing Organization
2013-2014:	HRSB students: 70%	HRSB students: 87%	HRSB students: 75%
	Black students: 54%	Black students: 81%	Black students: 60%
2014-2015:	HRSB students: 68%	HRSB students: 77%	HRSB students: 62%
	Black students: 49%	Black students: 67%	Black students: 48%

	Grade 6 Reading Comprehension	Grade 6 Writing Ideas	Grade 6 Writing Organization
2013-2014:	HRSB students: 79%	HRSB students: 89%	HRSB students: 80%
	Black students: 64%	Black students: 86%	Black students: 74%
2014-2015:	HRSB students: 78%	HRSB students: 78%	HRSB students: 64%
	Black students: 59%	Black students: 65%	Black students: 46%

	Grade 4 Mathematics	Grade 6 Mathematics
2013-2014:	HRSB students: 77%	HRSB students: 76%
	Black students: 56%	Black students: 50%
2014-2015:	HRSB students: 76%	HRSB students: 72%
	Black students: 59%	Black students: 46%

Apparent throughout these data is (a) the concerning devolution of academic achievement across the entire HRSB, but also (b) the particularly acute degradation amongst African Canadian students. In the single area of improvement for African Canadian students (Grade 4 mathematics, 2014-2015), the improvement narrowed the gap between African Canadians and the HRSB average to 17%. The status quo in Halifax education systemically reproduces poorly-educated Black students. This reinforces institutional poverty, unemployment, and often over-incarceration. This must be brought to the attention of the Government of Nova Scotia.

The discrepancies in basic reading comprehension levels for both Grade 3 and Grade 6 students should cause immediate alarm. However, worth noting about this information is the disparity *amongst Black* students between their performance levels in writing *ideas* and writing *organization*. The ACLC contends that “writing ideas” is a more apt gauge of creativity and intellect, whereas “writing organization” is an assessment of training. Thus, it stands to reason that the writing organization and reading comprehension deficits reflect the generally worse schools that African Nova Scotian children attend.

<sup>28</sup> Alison King, “HALIFAX REGIONAL SCHOOL BOARD: Focus on Learning: Elementary Provincial Results for Math and Literacy.” *Halifax Regional School Board*, June 3, 2015. <http://www.hrsb.ca/sites/default/files/hrsb/2015-05-19.pdf>

The disparities in mathematics are particularly concerning given the increasing emphasis on science and mathematics as essential skills for long-term employment in Canada. That *fewer than half* of the African Canadian students in Halifax met the expected level of achievement for the 2014-2015 academic year is shocking, deeply concerning, and provincially humiliating.

### Academic Streaming

In the Ontario public school system, students are sorted into programs of study that filter them towards different academic and professional futures. This process is called ‘streaming.’ The 3 major streams are (1) academic; (2) applied; and (3) essentials:

1. Academic courses are the most academically rigorous and are mandatory for university admission;
2. Applied courses prepare students to enter a college program; and,
3. Essential courses are designed to help students meet their compulsory credit requirements “if they are not working at grade level.”<sup>29</sup> Essentials students are effectively precluded from either university or college admission.<sup>30</sup>

The following information, provided by the TDSB, helps explain the dire situation for African Canadian students. Black students comprise 12.6% of TDSB students and comprise the following percentages for the three major programs of study: academic (8.8%); applied (22.7%); and essentials (29.3%).<sup>31</sup> Stated differently: Black students are under-represented in the program of study needed for university admission, are over-represented in the program of study that filters students into college admission, and are drastically over-represented in the program of study intended for students struggling to attain their compulsory credits. This does not bode well for the future academic or professional success of the African Canadian community.

African Canadian children are also effectively streamed with respect to the *type* of schools they attend. For example, Black students are overrepresented (19.3%) in schools with Limited Academic opportunities.<sup>32</sup> More concerning is the fact that Black TDSB students are over-represented at a rate that is nearly 3:1 (30.2%) in Special Education programs.<sup>33</sup> While Special Education programs are an essential service for children with special needs, our concern is that schools and teachers do not understand the cumulative compression of racial discrimination, generally poorer socio-economic and housing conditions for African Canadian families, and restricted access to premium social services as precipitating the need for special care in and of themselves. Instead, these factors are often ignored and the behaviour of the child, rather than the motivating factors behind this behaviour, becomes the focus of the program. This misguided attempt at education ultimately undermines the student’s sense of self by treating them as a ‘problem’ rather than as a child who *has* problems that can and should be treated.

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<sup>29</sup> Carl James and Tana Turner, “Towards Race Equity in Education: The Schooling of Black Students in the Greater Toronto Area.” *York University*. April 2017, <http://edu.yorku.ca/files/2017/04/Towards-Race-Equity-in-Education-April-2017.pdf> (accessed May 1, 2017) 29

<sup>30</sup> *ibid*

<sup>31</sup> Toronto District School Board (TDSB), “Structured Pathways: An exploration of programs of study, school-wide and in-school programs, as well as promotion and transference across secondary schools in the Toronto District Schools Board.” *TDSB*. December 2013 <http://www.tdsb.on.ca/Portals/Ward11/docs/StructuredPathways.pdf>, 3

<sup>32</sup> *Ibid*, 7

<sup>33</sup> *Ibid*



To this end, Black students are also highly over-represented amongst students considered to have learning disabilities and mild intellectual disabilities.<sup>34</sup> It cannot be emphasized enough: Black students are often faced with an amalgam of racially-specific and socio-economic stressors that can impede academic development. This inability of a student to perform academically is the inability of a school to help that student do so. It is paramount that we abandon the understanding of Black students' educational failure as mass-level individual failure and begin to acknowledge it as the institutional failure of our educational system. This systemic failure is a form of anti-Black racism by ignoring the needs of African Canadian children and allowing them to fail.

### Suspensions and Expulsions

African Canadian students are disciplined demonstrably and significantly more harshly than other racial groups. In the 2006-2007 academic year, Black students accounted for 31% of TDSB suspensions.<sup>35</sup> In the years since, these numbers have not improved. Between 2006-2011, 42% of Black students were suspended, as compared to 18% of White students and 15% of non-Black racialized students.<sup>36</sup> Between 2011-2016, 48% of *total* expulsions were of Black students, compared to 10% for White students.<sup>37</sup> This means that Black TDSB students are expelled at a disproportional rate of 4:1 relative to their percentage of the total student population.

Data from Nova Scotia reveal similar disproportionality in African Nova Scotian suspensions. In 5 of 8 school boards in Nova Scotia, Black students “face out-of-school suspensions at a rate of 1.2 to three times higher than the overall representation of African Nova Scotians in the student population.”<sup>38</sup>

In Halifax, 18% of out-of-school suspensions were of students of African descent despite said students representing only 7% of the student body. The following year, 22.5% of out-of-school suspensions were of students of African descent, despite said students representing 7.8% of the student body.<sup>39</sup> This increase in proportion comes despite the fact that total suspensions decreased during this time.<sup>40</sup>

Despite being deeply troubling, the information provided above is a testament to the impact that data can have. By understanding *where* the greatest areas of need are for African Canadians, we can begin to determine *why* these problem areas exist and, more importantly, *how* to address them. In effect – and this applies across all of the areas discussed, not just education – racism is a

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<sup>34</sup> Toronto District School Board (TDSB), “The TDSB Grade 9 Cohort 2006-2011: Special Education Fact Sheet No. 4” *TDSB*. May 2013. <http://www.tdsb.on.ca/Portals/research/docs/reports/Gr9CohortFactSheet4SpecialEducation13May13.pdf>, 3

<sup>35</sup> Jim Rankin and Kristin Rushowy, “High Suspension Rates for Black Students in TDSB Need to Change, Experts Say.” *The Toronto Star*. March 22, 2013. [https://www.thestar.com/yourtoronto/education/2013/03/22/high\\_suspension\\_rates\\_for\\_black\\_students\\_in\\_tdsb\\_need\\_to\\_change\\_experts\\_say.html](https://www.thestar.com/yourtoronto/education/2013/03/22/high_suspension_rates_for_black_students_in_tdsb_need_to_change_experts_say.html)

<sup>36</sup> James and Turner, *Towards Race Equity in Education*, 35

<sup>37</sup> *Ibid*, 36

<sup>38</sup> Richard Woodbury, “African-Nova Scotian students being suspended at disproportionately higher rates.” *CBC News*, December 12, 2016. <http://www.cbc.ca/news/canada/nova-scotia/african-nova-scotian-students-suspension-numbers-1.3885721>

<sup>39</sup> *ibid*

<sup>40</sup> Richard Woodbury, “Halifax Regional School Board releases student suspension report.” *CBC News*, May 26, 2016. <http://www.cbc.ca/news/canada/nova-scotia/halifax-regional-school-board-student-suspension-report-1.3601404>

cancer, and data collection is the biopsy; it helps to identify what issues we face, but is not a treatment in and of itself.

### **School Resource Officers (SROs)**

School Resource Officers (SROs) are uniformed police officers who are stationed in Toronto schools. The program has been active in certain schools since 2008.<sup>41</sup> The objective of the program is to “improve safety (real and perceived) in and around public schools, improve the perception of the police amongst youth in the community and improve the relationship between students and police.”<sup>42</sup>

The impact of the SRO program has been considerably different from its intent. The single statistically verifiable consequence of implementing the SRO program is the increase in direct youth referrals to the justice system by schools.

Studies from the United States detail the justice consequences of SROs. For example, with the advent of SRO programs, the city of Denver experienced a 71% increase in school referrals to law enforcement.<sup>43</sup> Another study, this time in Clayton County, Georgia, revealed that “with the placement of SROs in schools, the number of referrals directly to the juvenile justice system increased dramatically, from approximately 89 referrals per year in the 1990s to 1,400 per year in 2004.”<sup>44</sup> The Justice Policy Institute in the United States found that “even when controlling for school poverty, schools with an SRO had nearly five times the rate of arrests for disorderly conduct as schools without an SRO.”<sup>45</sup>

There is a deep-rooted, historical antagonism between the police and the African Canadian community. The very presence of police officers in schools compromises any sense of ‘safety’ that may be felt by many Black students. SROs have been seen “to interfere with the overall opportunity for students to learn” and in some cases – *most* cases for Black students – “create the very sense of fear and violence that they are supposed to prevent.”<sup>46</sup> The SRO program epitomizes the point made earlier in the introduction to this report regarding the discrepancy between intent and impact of policies when they fail to consider historical and present social realities. The SRO program was authorized by individuals who do not understand the historically traumatic role of police in African Canadian consciousness. It is not hyperbolic to submit that placing uniformed police officers in schools with high populations of Black students is a form of psychological violence.

Dr. Carl James, Professor of Education and Sociology at York University in Toronto, and sociologist Tana Turner write that “threats of calling police were regularly used to manage the behavior of [Black] children in elementary school.”<sup>47</sup> By positioning police as something to fear

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<sup>41</sup> Public Safety Canada. “School Resource Officer Program, Synopsis.” *Government of Canada*, August 1, 2013. <https://www.publicsafety.gc.ca/cnt/cntrng-crm/plcng/cnmcs-plcng/ndx/snpss-en.aspx?n=71>

<sup>42</sup> *ibid*

<sup>43</sup> Amanda Petteruti, “Education Under Arrest: The Case Against Police in Schools.” *Justice Policy Institute*, November 2011, 14-15

<sup>44</sup> *ibid*

<sup>45</sup> *Ibid*, 14

<sup>46</sup> *ibid* 17

<sup>47</sup> James and Turner, *Towards Race Equity in Education*, 56

and as a response to ‘bad’ behavior at such an early age, schools create an environment where the presence of the police is capable of instilling fear in students.

### **Disproportionate Impact**

Harvard Professor of Education Pedro Noguera writes, “Schools most frequently punish the students who have the greatest academic, social, economic, and emotional needs.”<sup>48</sup> It follows that Black students are disproportionately penalized by the school system. As discussed above, many African Canadian youth are afflicted by compounding marginalizing factors, including but not limited to, racial discrimination, poverty, and social service deprivation.

Noguera suggests that we must understand it is often “the needs of students and the inability of schools to meet those needs that causes them to be disciplined.”<sup>49</sup> Children who are behind academically and unable to perform at a level commensurate with grade-level expectations, often engage in disruptive behavior, either out of frustration or embarrassment.<sup>50</sup> Rather than recognizing the unmet needs of the child, schools often react to this behavior and, in doing so, penalize a child who is struggling to navigate a number of competing negative stimuli.<sup>51</sup>

Noguera also submits that “an implicit social contract serves as the basis for maintaining order in schools.”<sup>52</sup> Essentially, “in exchange for an education, students are expected to obey the rules and norms that are operative within school and to comply with the authority of the adults in charge.”<sup>53</sup> However, this arrangement tends to be the least effective for those students who are not receiving the benefits of an education. Once they know that the rewards of education—namely, the acquisition of knowledge, skills and, ultimately, admission to college and access to well-paying jobs—are not available to them, students have little incentive to comply with school rules.<sup>54</sup>

We must understand this within a racial context. Black students who under-perform are: (1) diagnosed as incapable or special needs but are not given the support to address those needs; (2) streamed into programs that they know provide them with minimal options to better their lives; (3) act out in frustration; but are then (4) suspended, expelled, or criminalized and effectively condemned to this association of deviance.

### **Graduation and Drop-Out Rates**

The graduation and drop-out rates of Black students in Toronto are incredibly alarming. These numbers, provided below, are also symptomatic of greater systemic issues at play.

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<sup>48</sup> Pedro A. Noguera, “Schools, Prisons, and Social Implications of Punishment: Rethinking Disciplinary Practices.” *Ohio State University Theory Into Practice* 42(4), Autumn 2003, 342

<sup>49</sup> *ibid*

<sup>50</sup> *Ibid*

<sup>51</sup> *Ibid*,

<sup>52</sup> *Ibid*, 343

<sup>53</sup> *Ibid*

<sup>54</sup> *ibid*

*TDSB Graduation Rates, 2006-2011*<sup>55</sup>

<b>Racial Demographic</b>	<b>Graduation Rate, 2006-2011</b>
White students	84%
Non-Black racialized students	89%
Black students	69%

*TDSB Drop-Out Rates, 2006-2011*<sup>56</sup>

<b>Racial Demographic</b>	<b>Graduation Rate, 2006-2011</b>
White students	11%
Non-Black racialized students	9%
Black students	20%

Fewer Black students are graduating high school than any other racial group, and Black students are dropping out of school at a rate *twice that* of other racial groups.<sup>57</sup> Worse, the graduation rate for 3<sup>rd</sup> generation Black students is 59%, and the drop-out rate for these same students is 28%.<sup>58</sup> This is significantly worse than immigrant 1<sup>st</sup> and 2<sup>nd</sup> generation Black students.<sup>59</sup>

Therefore, stated differently, Dr. James’ study reveals that “the longer the family has been in Canada, the worse the outcomes for Black students.”<sup>60</sup> This goes beyond simply being problematic. Black students are performing worse in education than their parents, who recently immigrated here and often had to overcome cultural and language barriers. Despite being born and raised in Canada, Black students are performing progressively worse than their parents. Canadian education (among other socio-economic factors) is causing this failure, and consequently, Canada is failing its young Black citizens. Action must be taken to rectify this failure.

**Qualitative Discussion**

Dr. Carl James describes schooling and education as “different though overlapping processes.”<sup>61</sup> This distinction should be considered in the context of understanding that even if curricula are relatively uniform across school boards, the environments of the schools apply to students in different and often competing ways. Essentially, with social institutions acting as agents of cultural reproduction, the ACLC submits that students who do not belong to the dominant culture are subject to differential learning impacts in terms of how they respond to the educational programming.

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<sup>55</sup> James and Turner, *Towards Race Equity in Education*, 31

<sup>56</sup> *ibid*

<sup>57</sup> *ibid*

<sup>58</sup> *Ibid* 32

<sup>59</sup> *ibid*

<sup>60</sup> *ibid*, 31

<sup>61</sup> Carl James, “Students “at Risk”: Stereotypes and the Schooling of Black Boys” *York University*. *Urban Education* 47(2) (2012) 466

Justine Joseph and psychologist Ben Kuo, from the University of Windsor, write that, although “an individual’s coping response is bounded by his or her cultural norms and shaped by the individual’s values and beliefs,” Canadian society prescribes a “problem-focused coping strategy” that is ill-suited to processing and addressing racially discriminatory stressors.<sup>62</sup> Institutional racial discrimination is inflicted by a White, Eurocentric apparatus but is *felt* through a racialized lens. As a result, the understanding of the psychological consequences of racial discrimination is lost.

The data makes it clear that Black students experience education differently from non-Black students. In order to change this and allow for positive growth within classrooms, we must understand why this happens.

### **The Role of Racial Identity in Classrooms**

Racial identity is defined as “self-conceptualization based on perceptions of one’s race.”<sup>63</sup> Racial identity has been demonstrated to “play a crucial role in one’s motivation and sense of belonging in the school setting.”<sup>64</sup> The experiences of Black students within the school environment are unique from other racial/ethnic demographics “because of their awareness of stereotypes and uncertainty of their groups’ value in mainstream settings.”<sup>65</sup>

A study conducted by Colette Maria Boston for Azusa Pacific University discusses the concept of “stereotype threat” as it applies to African American students. Stereotype threat “occurs when members of a group for whom negative stereotypes exist experience a situation that may confirm the negative stereotype.”<sup>66</sup> Social Psychologists Claude Steele (Stanford University) and Joshua Aronson (University of Texas, Austin) concluded in 1995 that “presenting an intellectual test of diagnostic ability [activates] stereotype threat” for Black students.<sup>67</sup> The stereotype threat theory helps account for African Canadian students’ significantly lower academic performance in TDSB/HRSB classrooms. It also suggests that the pervasiveness of stigmatized African Canadian academic failure aggravates stimuli that make the exact same test more difficult for Black students vis-à-vis their White counterparts because of the psychological burdens of a discriminatory environment.

### **Implicit Bias and Low Teacher Expectations**

Respondents to “Towards Race Equity in Education,” a 2017 study from York University, observed a connection between the cumulative impact of individual and institutional racism in the school system of Black students’ ostensibly “deviant” or “unruly” behaviour.<sup>68</sup> This behaviour also occurs in response to Black students’ perception of their teachers’ “culture of

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<sup>62</sup> Justine Joseph and Ben Kuo, “Black Canadians’ Coping Responses to Racial Discrimination.” *University of Windsor, JOURNAL OF BLACK PSYCHOLOGY*, Vol. 35 No. 1, February 2009. 79-80

<sup>63</sup> Colette Maria Boston, “The Relationship Among Racial Identity, Sense of Belonging, and the Academic Motivation of African American High School Students.” *Azusa Pacific University*. July 2015. 3

<sup>64</sup> *ibid*

<sup>65</sup> *ibid*

<sup>66</sup> *Ibid*, 20

<sup>67</sup> *Ibid*, 23

<sup>68</sup> James and Turner, *Towards Race Equity in Education*, 55

fear” towards them.<sup>69</sup> In short, students may act out when faced with the mounting pressures of a school environment that they consider to be both “culturally unsafe and racially hostile.”<sup>70</sup>

One of the simplest and most effective remedies to this situation is a more diverse and equitable teaching staff. Not only does this create a more inclusive learning environment for racialized students, it also combats one of the most pervasive and complex issues plaguing Canadian schools: the low expectations and differential behaviour assessments that White teachers apply to their Black students. A study by Johns Hopkins University found that White teachers were “40% less likely to expect their Black students to graduate high school and 30% less likely to predict that they will complete university.”<sup>71</sup> However, the study also found that, for Black students, “having a Black teacher reduces the chances of dropping out of high school by 39% and increases interest in pursuing post-secondary education by 29%.”<sup>72</sup>

Teacher expectations of their students are connected to students’ motivation to succeed, and Black teachers “are more likely to have higher expectations for Black children than those typically held by White teachers.”<sup>73</sup> Additionally, Black students are considered “less disruptive and are suspended less often” by Black teachers than by White teachers.<sup>74</sup> These biases are shown to exist even at a pre-school level. According to data coming out of America, Black preschoolers are suspended 3.6x more than their White classmates.<sup>75</sup>

The following excerpt from a study published by Yale University in 2016 provides some insight into what happens when implicit bias occurs in in the school setting:

“Researchers presented school teachers with two fictional male student disciplinary records. The records were randomly labeled with either stereotypical Black names or stereotypical White names. Both fictional students had engaged in minor school violations (e.g., classroom disturbance). Teachers reported that they felt more “troubled” by the offenses of the Black student and were more likely to recommend severe punishment for the Black student after the second infraction, including suspension, compared to the White student with the same record.”<sup>76</sup>

This is reflective of what the authors refer to as the “automatic association between race [specifically, being Black] and perceived threat of aggression” that exists even when the student is a five-year-old boy.<sup>77</sup> A child cannot be expected to learn, develop, or thrive in an environment that tacitly ascribes to them violence, danger, and incompetence.

The following chart summarizes the various types of racialized barriers facing Black students in the Canadian education system. It demonstrates how anti-Black racism manifests in schools in a

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<sup>69</sup> *ibid*, 52

<sup>70</sup> *Ibid*, 55

<sup>71</sup> *Ibid*, 65

<sup>72</sup> *Ibid*

<sup>73</sup> Walter S. Gilliam et al., “Do Early Educators’ Implicit Biases Regarding Sex and Race Relate to Behavior Expectations and Recommendations of Preschool Expulsions and Suspensions?” *Yale University Child Center*, September 28, 2016. 4

<sup>74</sup> *ibid*

<sup>75</sup> James and Turner, *Towards Race Equity in Education*, 65

<sup>76</sup> Gilliam et al. *Early Educators Implicit Biases*, 3

<sup>77</sup> *Ibid*, 3

multitude of different ways. Though not always explicit, anti-Black discrimination significantly impedes a student's learning environment and psychological comfort within a school setting.

TABLE I. Racialised barriers that impede the academic achievement of African-Canadian students

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*Anti-Black racism*

- Name-calling ('Nigger')
- Racial hostility and slurs ('liver lips')
- Prejudice
- Discrimination
- Devalued position/status in Canadian society
  
- *Negative racial stereotyping*
- Social stigma (Black students seen as 'athletes' and 'entertainers')
- Stigma of intellectual inferiority ('can't do math or sciences'; 'could never become a doctor')
- Streaming and tracking ('steering Black students into roles suited to their "natural ability"')
- Black students as troublemakers

*Racially-biased curriculum/texts*

- Eurocentric (monocultural) curriculum
- Lack of relevancy to Black students' lives
- Invisibility of Black/African studies
- Negative references to African-Canadians

*Low teacher expectations*

- Differential/discriminatory treatment
- Lower expectations and insensitivity
- Doubting of academic capabilities
- No encouragement
- Expect less academically from Black students
- Receives 'silent treatment' from teachers

*Alienating school environment*

- Only Black student in a predominantly White student body
  - Social isolation and loneliness
  - Lack of Black friends/peers
  - Lack of Black role models (teachers, counsellors, administrators)
  - Difficult adjustment period
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<sup>78</sup> Image: Henry M Codjoe, "Fighting a 'Public Enemy' of Black Academic Achievement—the persistence of racism and the schooling experiences of Black students in Canada" *Race Ethnicity and Education*, 4:4 (2001) 360

Statistics Canada reports that the African Canadian community is not only amongst the fastest-growing communities in Canada, it is also one of the youngest.<sup>79</sup> It is estimated that the African Canadian community will double in size by 2031.<sup>80</sup> With the concerns presented by the data outlined above regarding the way in which Black students interact with the Canadian education system, it is clear that that failure to address these issues now will precipitate the cyclical production of a second-tier society populated in large part by Black bodies.

**The Shackled Hopes of a 6-Year-Old Black Student: A Profile in “Adultification”:**

**In September 2016, the Peel District School Board (PDSB) called Peel Regional Police to address the behaviour of a Grade 1 student as opposed to using age appropriate disciplinary methods. The responding police officers used handcuffs to shackle the hands and feet of a student. This student was a 6-year-old African Canadian girl.**

**The school had already called the police on this student on 3 prior occasions. She has been suspended from school 4 times between the ages of 4 and 6.**

**In addition to calling the police, the PDSB also called paramedics who attempted to perform unauthorized medical treatment on this 6-year-old girl. The school further called the Children’s Aid Society despite the fact that the child was not in her parents’ care at the time of the incident and was not at risk of harm.**

**This use of institutional force was unnecessary given the situation at hand and the fact that this is a 6-year-old, 48lb Grade 1 infant. She is the youngest child to have ever been handcuffed by police in Canadian history. The treatment this child was subjected to is unacceptable by any standard. It is humiliating, it is dehumanizing, and it is highly despicable that several public systems of authority coalesced to subject a little Black child to an egregious act of anti-Black racism. The ACLC requests that the reader take a moment to truly contemplate both the trauma of this girl and her mother, but also that the little Black body of a 6-year-old girl is considered to be an acceptable site of systemic trauma.**

This incident reflects a disturbing trend in the education of Black girls. A recent report from the Georgetown Law Center for Poverty and Inequality discusses the social ‘adultification’ of Black girls – the behavioural expectations, stereotypes, and general attitudes directed towards Black women being imposed on Black girls – and describes a troubling socio-cultural phenomenon that results in Black girls being disproportionately punished in both frequency and severity.<sup>81</sup> The authors categorize adultification as “a form of dehumanization, [that robs] children of the very essence of what makes childhood distinct from all other developmental periods: innocence.”<sup>82</sup> It does this by “contributing to a false narrative that Black youths’ transgressions are intentional

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<sup>79</sup> James and Turner, *Towards Race Equity in Education*, 23-24

<sup>80</sup> *ibid*

<sup>81</sup> Jamilia J. Blake et al., “Girlhood Interrupted: The Erasure of Black Girls’ Childhood.” *Georgetown Law Center on Poverty and Inequality* (Summer 2017) <http://www.law.georgetown.edu/academics/centers-institutes/poverty-inequality/upload/girlhood-interrupted.pdf> 6

<sup>82</sup> *ibid*



and malicious, instead of the result of immature decision-making – a key characteristic of childhood.”<sup>83</sup>

The authors write that when the courts ruled to extend special protections and a reduced culpability to children on account of this innocence, Black youths’ “position remained relatively unchanged” as a result of a “legacy of racial discrimination” that has historically been characterized by “responding to Black youths’ child-like behavior more punitively.”<sup>84</sup>

Black girls find themselves “under greater surveillance of their decorum than their [W]hite peers.”<sup>85</sup> The practical effects of this are simple: stereotypes directed toward Black girls (i.e. “loud”) are interpreted through an adult lens and are, as such, “perceived as a threat.”<sup>86</sup> Consequently, Black girls are 3x more likely than White girls to be disciplined for “disruptive behaviour.”<sup>87</sup>

The authors conclude that “the perception of Black girls as less innocent may contribute to harsher punishment by educators and school resource officers,” and that teachers must “recognize the bias underlying the adultification of Black girls” in order to achieve a greater level of equity in education.<sup>88</sup> The latter half of that sentence is the most important to this section: most teachers *do not consider themselves to be racist* and do not perceive themselves to be treating Black children any worse than they do children of other races and ethnicities. However, when we learn how to think within spaces that are created and influenced by one particular culture, historical discriminatory biases persist in the structural assessment models of our brains - even if we may not be, or may not perceive ourselves to be, *explicitly* racist or prejudiced.

The shackling of a little girl aptly demonstrates how systemic anti-Black racism manifests in the education system. Under no circumstances should a child ever be handcuffed and shackled. There are a host of positive and more effective alternatives to suspension and police brute force. However, the rampant adultification of young Black girls results in their being disproportionately disciplined. The ACLC fears this is symptomatic of policies such as the SRO program, where teachers have abdicated discipline responsibilities to police officers, thereby unnecessarily increasing the exposure of children to the youth criminal justice system.<sup>89</sup> This is clearly demonstrated in the aforementioned confrontation between the police officer and the African Canadian 6-year-old child.

The time is well overdue for Canada’s educational institutions and culture to move away from understanding failure and underachievement as the individual responsibility of students and parents and to recognize the systemic factors that create an environment that actively suppresses the potential of African Canadian children.

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<sup>83</sup> *ibid*

<sup>84</sup> *Ibid*, 4

<sup>85</sup> *Ibid*, 6

<sup>86</sup> *Ibid*, 5

<sup>87</sup> *Ibid*, 10

<sup>88</sup> *Ibid*, 1, 14

<sup>89</sup> Amanda Petteruti, “Education Under Arrest: The Case Against Police in Schools.” *Justice Policy Institute*, November 2011, 13

### **Contravention of the CERD in Education**

- **Article 2(1):** States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end: (a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation; (b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations.
  - By teaching students using a predominantly White, Eurocentric curriculum, Canadian schools epistemically neglect the culture and history of racialized groups in Canadian society. As one of Canada’s oldest peoples, this is particularly burdensome for the African Canadian community, which has had a substantial element of its history erased from Canada’s national history.
  
- **Article 4:** States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention.
  - The absence or minimization of African Canadian culture from standardized Canadian curricula enforces the ideological superiority of European thought patterns. Canada must reflect on the ideological spaces it intends to create for its people; if it generally seeks to form an inclusive identity, then Provincial governments must address the ways in which they enforce Eurocentric superiority.
  
- **Article 5(e)(v):** In compliance with the fundamental obligations laid down in Article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:
  - ...
  - (e) Economic, social and cultural rights, in particular:
    - ...
    - (v) The right to education and training
    - Canada has sworn to offer its citizens and residents “the right to education and training.” This right has been neglected for African Canadians. As the low graduation rates, high drop-out rates, adverse streaming, and poorer educational performance indicate, African Canadian students either do not receive an education, or receive an education inferior to that received by non-Black students.
  
- **Article 7:** States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to

combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and this Convention.

- The Canadian education system (although not under federal jurisdiction) fails to introduce genuine equity amongst its teaching staff to better reflect its student bodies. Additionally, Canadian curricula are devoid of African Canadian culture. The confinement of African Canadian history to the month of February treats the community's vibrant culture as something to accommodate or placate, rather than as a cultural engine of Canadian life. As long as African Canadians are excluded from what is considered culturally 'mainstream,' anti-Black racism will persist in Canadian schools.

### **Recommendations for Education**

- 1) The ACLC calls for national recognition of the over 300-year history of African Canadian presence in Canada and the recognition of the continuous contributions of African Canadians to Canada's national and cultural development. The ACLC further adopts the Working Group's Recommendation that the Government of Canada ensure that textbooks and other educational materials reflect this historical fact accurately as they relate to past tragedies and atrocities. In particular, there must be a more truthful education detailing slavery, segregation, and anti-Black racism.
- 2) The ACLC adopts the Working Group's Recommendation that the Government of Canada implement a nationwide African Canadian education strategy to address the inordinately low educational attainment, and the high dropout, suspension, and expulsion rates suffered by African Canadian children and youth.
- 3) The ACLC adopts the Working Group's Recommendation that the Provincial Ministries collect disaggregated data and ensure adequate remedies are available to African Canadian students impacted by discriminatory effects of disciplinary policies including racial profiling.
- 4) Encourage the Province of Ontario to repeal its *Safe Schools Legislation*
  - Special attention must be directed toward reviewing Section 23 schools for children suspended and expelled under the *Safe Schools Act* (2000). These schools, as well as other alternative education programs that disproportionately feature African Canadians, enforce the de facto segregation of Black students into inferior educational programs and must be eliminated. The disproportionate discipline inflicted upon African Canadians actively forces them out of learning environments and aggravates the threats of the "school-to-prison pipeline." This is a violation of African Canadian children's right to an education.

## V. Policing

The relationship between the African Canadian community and the police is and has historically been tense, complex and, far too often, violent. As a result of the amalgam of institutional anti-Black racism, malignant stigmatization, and personal biases, Canadian police equate Blackness with criminality. This is demonstrated by the prevalence of racial profiling of African Canadians by police, the derivative disproportionality in ‘carding’ of African Canadians and, most tragically, the repeated shooting deaths of African Canadian men by police. It should be noted that many of these men suffered from mental health differences. These differences are far too often criminalized and portrayed as being dangerous.

### Racial Profiling

Contrary to what most public organizations and institutions suggest, racial profiling remains a heavily-practiced form of racial discrimination. The OHRC writes that, aside from overt individual profiling, certain “institutional policies, practices, assessment tools and decision-making processes” can constitute racial profiling; as such, we must alter our understanding of profiling as an individual practice and recognize that it is “institutional or systemic in nature.”<sup>90</sup>

In theory, profiling is rejected by Canadian police. In practice, however, racial profiling carries enormous institutional weight in terms of how policing is conducted in Canada. African Canadians are disproportionately victims of racial profiling by police. Described in *Peart v. Peel Regional Police* [paras 93, 96]<sup>91</sup> as “offensive to fundamental concepts of equality and the human dignity of those who are subject to [it],” racial profiling “fuels negative and destructive” stereotypes about its victims.<sup>92</sup> The practice and the perception of racial profiling “severely diminishes people’s sense of trust in public institutions.”<sup>93</sup>

Profiling “has a harmful effect on dignity” and can cause victims to “lose their sense of being safe and secure, their liberty, their connection with their families and communities, and in the most tragic cases, their lives.”<sup>94</sup> “Paying the Price,” an OHRC report from 2003, lists “increased fear, a sense of intimidation, reinforced anxieties, and enhanced feelings of helplessness and hopelessness” as symptomatic of the sustained negative impacts of racial profiling.<sup>95</sup>

According to the “Under Suspicion” study, 72.5% of Black people reported that they felt they had been profiled, with the police being the highest reported sector having committed the profiling.<sup>96</sup> Additionally, 62% said that their trust in police has diminished as a result of their experience, nearly half said it decreased their trust in the law and the justice system, and 45%

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<sup>90</sup> Ontario Human Rights Commission, *Under Suspicion*, 6-7

<sup>91</sup> *Peart v. Peel Regional Police Services*, 2006 CanLII 37566 (ON CA), <<http://canlii.ca/t/1pz1n>>, retrieved on 2017-07-07

<sup>92</sup> Ontario Human Rights Commission, *Under Suspicion*, 9

<sup>93</sup> *Ibid*, 7

<sup>94</sup> *Ibid*, 9

<sup>95</sup> Ontario Human Rights Commission, *Paying the Price: The Human Cost of Racial Profiling* (2003) cited in Akwatu Khenti, “The Canadian War on Drugs: Structural Violence and unequal treatment of Black Canadians.” *International Journal of Drug Policy*, 25 [http://www.ijdp.org/article/S0955-3959\(13\)00230-2/pdf](http://www.ijdp.org/article/S0955-3959(13)00230-2/pdf) (2014), 193

<sup>96</sup> Ontario Human Rights Commission, *Under Suspicion*, 20, 27

responded that their “sense of belonging” to Canada and their community had been undermined.<sup>97</sup>

### Racial Profiling by the Ottawa Police Service

Dr. Lorne Foster *et al.* from York University recently published “Race Data and Traffic Stops in Ottawa,” a study that reveals extreme racial profiling within the Ottawa Police Service. At present, the Ottawa Police Service does not publish data concerning pedestrian stops; however, the data for vehicular stops reveal significant racial profiling of African Canadians.

Ottawa Police Service officers stopped Black drivers at a rate that was 2.3x disproportional to the Black driving population.<sup>98</sup> However, for *young Black male* drivers (aged 16-24), this rate increased to 8.3x.<sup>99</sup> Additionally, Black drivers were the most disproportionately stopped demographic for “suspicious activities.”<sup>100</sup> The vagueness of this wording gives the ACLC pause. It affords enormous discretion and room for overt or subconscious bias to creep into an officer’s assessment of the individual before him/her.

The ACLC’s concern over stops for “suspicious activities” is heightened when considering that 47.3% of stops of Black drivers are considered “final” (i.e. there is ‘no outcome’ because the driver was found to have done nothing criminal).<sup>101</sup> Therefore, not only is the African Canadian community in Ottawa subjected to disproportionately high surveillance, this surveillance generally yields the observation that Black drivers are law-abiding.

### **Street Checks and Carding**

The practice of ‘carding,’ where police fill out Field Information Reports (Contact Cards) which include a subject’s personal information (skin colour, height, weight, reason for stop, location of stop, and ‘associates’) and input this information into a massive centralized police database, is enormously skewed towards the Black community.<sup>102</sup>

These Contact Cards are of enormous concern to the African Canadian community. They are non-charge records that still identify individuals to police. Essentially, despite individuals for whom Contact Cards have been issued *not, nor having ever been, charged with a crime*, they will be “known to police” in perpetuity. It violates the fundamental principle of “innocent until proven guilty.” It is functionally racist and discriminatory to keep information on certain groups of people whom police believe are criminally inclined *in the event a crime occurs*. To many, the issuing of a Contact Card may appear banal. For individuals who have historically been criminalized, it constitutes (1) the theft of their identity, and (2) a theft of their human dignity and of their right to be presumed innocent.

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<sup>97</sup> Ibid, 40

<sup>98</sup> Lorne Foster et al., “Race Data and Traffic Stops in Ottawa, 2013-2015: A Report on Ottawa and the Police Districts” *York University* (October 2016). [https://www.ottawapolice.ca/en/about-us/resources/.TSRDCP\\_York\\_Research\\_Report.pdf](https://www.ottawapolice.ca/en/about-us/resources/.TSRDCP_York_Research_Report.pdf), 4

<sup>99</sup> Ibid

<sup>100</sup> Ibid, 5

<sup>101</sup> Ibid

<sup>102</sup> Jim Rankin and Patty Winsa, “Known to Police: Toronto police stop and document black and brown people far more than whites.” *The Toronto Star*, March 9, 2012. [https://www.thestar.com/news/insight/2012/03/09/known\\_to\\_police\\_toronto\\_police\\_stop\\_and\\_document\\_black\\_and\\_brown\\_people\\_far\\_more\\_than\\_whites.html](https://www.thestar.com/news/insight/2012/03/09/known_to_police_toronto_police_stop_and_document_black_and_brown_people_far_more_than_whites.html)

In every single one of Toronto's 72 city districts, African Canadians are carded at higher rates than White people.<sup>103</sup> While this disproportionality operates such that African Canadians are on average 3.2x more likely to be carded than White people, this number rises to 3-5x more likely to be carded in 31 districts and continues to rise to 5-10x more likely to be carded in 11 districts.<sup>104</sup> Between 2008-2011, the number of Contact Cards issued to African Canadians equaled 74% of the entire Black population in Toronto.<sup>105</sup> The next highest racial group was Brown people (i.e. South Asian, North African, etc.), to whom enough cards had been issued to equal 39% of the entire Brown population.<sup>106</sup>

The information above included the entire Black population in Toronto. When narrowed exclusively to "young men," the numbers are shocking. Contact Cards issued to young Black men in Toronto between 2008-2011 equal 340% of the entire young Black male population.<sup>107</sup> As a point of reference, the closest racial group again, was Brown people, with young Brown men having been issued enough Contact Cards to equal 183% of their population.<sup>108</sup>

An internal police review in Montreal revealed that from 2001-2006, approximately 40% of young Black men in specific neighbourhoods were stopped and questioned by police, in comparison to just 6% of young White men.<sup>109</sup> Similarly, in 2013, African Canadians accounted for 27.4% of Contact Cards issued by Toronto police, which is 3.4x the proportion of African Canadians in Toronto's general population.<sup>110</sup>

These disproportionalities are not accidental or coincidental. Whether explicitly or implicitly, they result from mandated police practices. In 2015, then-Chief of the Hamilton Police Service Glenn De Caire, when discussing carding and high crime areas, said that "we are going to be stopping, talking and investigating young [B]lack males."<sup>111</sup> Additionally, Peel Chief of Police Jennifer Evans resisted any amendments to street check policies in Peel, calling them a "vital operational practice," despite data clearly demonstrating that Peel Police Officers issued Contact Cards for African Canadians at 3x the rate they issued Contact Cards for White people.<sup>112</sup> Within the context of knowing this disproportionality exists, continuing to endorse Carding without any retooling of the policies operates as an endorsement of racial profiling against African Canadians.

These open endorsements of racial profiling at the highest levels of Canadian policing reinforces the stigmatic notion of criminality as it has been assigned to African Canadians, both by the police and by society at large.

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<sup>103</sup> *ibid*

<sup>104</sup> *ibid*

<sup>105</sup> *ibid*

<sup>106</sup> *ibid*

<sup>107</sup> *ibid*

<sup>108</sup> *ibid*

<sup>109</sup> Akwatu Khenti, "The Canadian War on Drugs: Structural Violence and unequal treatment of Black Canadians." *International Journal of Drug Policy*, 25 [http://www.ijdp.org/article/S0955-3959\(13\)00230-2/pdf](http://www.ijdp.org/article/S0955-3959(13)00230-2/pdf) (2014)192

<sup>110</sup> Jim Rankin et al, "Carding drops but proportion of blacks stopped by Toronto police rises." *The Toronto Star*. July 26, 2014 [https://www.thestar.com/news/insight/2014/07/26/carding\\_drops\\_but\\_proportion\\_of\\_blacks\\_stopped\\_by\\_toronto\\_police\\_rises.html](https://www.thestar.com/news/insight/2014/07/26/carding_drops_but_proportion_of_blacks_stopped_by_toronto_police_rises.html)

<sup>111</sup> Ontario Human Rights Commission, *Under Suspicion*, 17

<sup>112</sup> San Grewal, "Embattled Peel Police Chief wants two more years on the job." *The Toronto Star*, May 20, 2017. <https://www.thestar.com/news/gta/2017/05/20/embattled-peel-police-chief-wants-two-more-years-on-the-job.html>

### **Mental Health and Policing: First points of contact**

For many African Canadians with mental health differences, their initial interaction with any form of potential mental health treatment is through police. As noted by mental health advocates, this means that, for many African Canadians, the first time they are provided with any mental health treatment is after they become known to the police.<sup>113</sup> A 2012 report out of the Wellesley Institute supports this statement. Citing a 2005 study, the report noted that “African Canadian patients admitted to hospitals with psychosis are more likely than others to be brought there by police or ambulance.”<sup>114</sup> African Canadians deserve equal access to healthcare, and equal quality healthcare once having received access.

In 2016, a report by the Mental Health Commission of Canada found that “specific culturally-adapted treatments for racialized youth are effective, especially when it comes to substance misuse.”<sup>115</sup> Earlier this year, African Canadian community organizers and mental health professionals in the Greater Toronto Area met to discuss the lack of funding and staffing for mental health organizations, particularly ones with culturally sensitive programming such as the Substance Abuse Program for African Canadian and Caribbean Youth (SAPACCY).<sup>116</sup> The SAPACCY, which is run through the Centre for Addiction and Mental Health (CAMH), was the main topic of conversation because it “has continued to suffer [a reduction in] funding and staffing,” having found itself on the verge of closure in 2016.<sup>117</sup>

Both the Ontario government and the CAMH have failed to support this absolutely vital and necessary mental health and addiction program. Despite the SAPACCY’s success in treating and counselling African Canadian youth, the Province of Ontario and the CAMH seemingly refuse to commit to its success and expansion. The African Canadian community needs this program, and this must be recognized – and sustainably funded and staffed – by both the Government of Ontario and the CAMH.

The unavailability of mental health resources for Canadians at large and the disproportionate impact this lack of treatment has on African Canadians is further compounded by a justified “suspicion of the medical and justice systems” held by members of the community and by the complex socio-economic and cultural factors that result in an inability to afford what mental health services may be available.<sup>118</sup>

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<sup>113</sup> Da Silva, Michelle, “Despite funding boost, advocates say Canada has a mental health crisis” (May 5, 2017) <https://nowtoronto.com/news/despite-funding-boost-advocates-say-canada-has-mental-health-crisis/>

<sup>114</sup> Nestel, Sheryl, *Colour Coded Health Care: The Impact of Race and Racism on Canadians’ Health* (January 2012) <http://www.wellesleyinstitute.com/health/colour-coded-health-care-the-impact-of-race-and-racism-on-canadians-health/>

<sup>115</sup> Yang, Jennifer, “Program for black youth in crisis at heart of bitter dispute” (May 4, 2017) <https://www.thestar.com/news/gta/2017/05/04/program-for-black-youth-in-crisis-at-heart-of-bitter-dispute.html>

<sup>116</sup> Da Silva, Michelle, “Despite funding boost, advocates say Canada has a mental health crisis” (May 5, 2017) <https://nowtoronto.com/news/despite-funding-boost-advocates-say-canada-has-mental-health-crisis/>

<sup>117</sup> Da Silva, Michelle, “Despite funding boost, advocates say Canada has a mental health crisis” (May 5, 2017) <https://nowtoronto.com/news/despite-funding-boost-advocates-say-canada-has-mental-health-crisis/>; Yang, Jennifer, “Program for black youth in crisis at heart of bitter dispute” (May 4, 2017) <https://www.thestar.com/news/gta/2017/05/04/program-for-black-youth-in-crisis-at-heart-of-bitter-dispute.html>

<sup>118</sup> Nestel, Sheryl, *Colour Coded Health Care: The Impact of Race and Racism on Canadians’ Health* (January 2012) <http://www.wellesleyinstitute.com/health/colour-coded-health-care-the-impact-of-race-and-racism-on-canadians-health/>

Multiple studies demonstrate that barriers to accessing mental health care are disproportionately faced by African Canadians.<sup>119</sup> In 2015, a study was conducted that found that Black Caribbeans with psychosis in Toronto and Hamilton had a median wait time of 16 months to access health care, while their White European counterparts had a median wait time of 7 months.<sup>120</sup> And yet, by ignoring the needs of the SAPACCY, the Government of Ontario and the CAMH have systematically contributed to the erosion of Canada's only culturally appropriate and highly successful treatment program to African Canadian youth.

As is demonstrated below, the preclusion of access to adequate healthcare can result in African Canadians' mental health differences going undiagnosed and untreated, eventually deteriorating to tragic results.

**Profiling Deadly Violence:**

While racial profiling manifests in many different ways, it is most dangerous when it results in the killing of African Canadians by police. These killings provide yet another example of how the stereotypes, stigmas, and prejudices held against African Canadians ultimately result in violence and criminality being ascribed to them, which is then used to effectively justify police killing Black men in "fear for their lives."

Below is a list of just some of the African Canadian men who were shot and killed by various Canadian police services since Canada's last review by the CERD in 2012. They are introduced by name, date of death, and the police force responsible for their death:

**Michael Eligon**, February 3, 2012 (Toronto Police Service)

On the morning of February 3, 2012, Mr. Eligon left the mental health unit of Toronto East General Hospital, dressed in only a hospital gown and socks following a psychological evaluation. Police engaged with Mr. Eligon, who was reportedly stumbling "zombie-like" and carrying two pairs of scissors. Despite exhibiting clear signs of mental health differences, one of the responding police officers shot Mr. Eligon, after which another officer repeatedly kicked and stomped on Mr. Eligon in the middle of the street. The police killing of Mr. Eligon is the first in a series of mentally unwell Black men killed by Canadian police services since the previous review session.

Curtis Rush, "Toronto Police Shooting of Michael Eligon: A timeline." *The Toronto Star*, March 2, 2012.  
[https://www.thestar.com/news/crime/2012/03/02/toronto\\_police\\_shooting\\_of\\_michael\\_eligon\\_a\\_timeline.html](https://www.thestar.com/news/crime/2012/03/02/toronto_police_shooting_of_michael_eligon_a_timeline.html)

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<sup>119</sup> Yang, Jennifer, "Program for black youth in crisis at heart of bitter dispute" (May 4, 2017)  
<https://www.thestar.com/news/gta/2017/05/04/program-for-black-youth-in-crisis-at-heart-of-bitter-dispute.html>

<sup>120</sup> Yang, Jennifer, "Program for black youth in crisis at heart of bitter dispute" (May 4, 2017)  
<https://www.thestar.com/news/gta/2017/05/04/program-for-black-youth-in-crisis-at-heart-of-bitter-dispute.html>



**Ian Pryce**, November 15, 2013 (Toronto Police Service)

Mr. Pryce, who suffered from schizophrenia, was “armed” with a pellet gun during a standoff with police. While it is not unreasonable to mistake this for a real weapon, an officer who had “heard Pryce’s weapon discharge believed it sounded like a cap gun or pellet gun.” This information was apparently not transmitted to the other officers. This lack of communication resulted in Mr. Pryce being killed by police when what he really needed was treatment from a medical professional.

These types of cases make it clear that officers need to be prepared to engage with individuals suffering from mental illness and diffuse situations without firearms or risking the killing of Black men who are suffering with mental health differences.

Wendy Gillis, “Mother remembers Ian Pryce, shot by police in 2013 with a pellet gun in his hand.” *The Toronto Star*, January 13, 2015.

[https://www.thestar.com/news/crime/2015/01/03/mother\\_remembers\\_ian\\_pryce\\_shot\\_by\\_police\\_in\\_2013\\_with\\_a\\_pellet\\_gun\\_in\\_his\\_hand.html](https://www.thestar.com/news/crime/2015/01/03/mother_remembers_ian_pryce_shot_by_police_in_2013_with_a_pellet_gun_in_his_hand.html)

**Alain Magloire**, February 3, 2014 (Service de police de la Ville de Montréal)

Mr. Magloire was homeless and suffering from mental illness when he was shot and killed by Montreal police in February 2014. He was a father, a son, and a biochemist with a Master’s degree in molecular biology. Mr. Magloire was allegedly threatening staff at a hostel with a hammer when the police were called. When he walked towards the police, Mr. Magloire was hit by a squad car and then shot four times, which killed him.

The Coroner’s Inquest into Mr. Magloire’s death yielded a report stating that police should have been more attentive to Mr. Magloire’s mental illness, which it suggested would have impacted his decision making. Accordingly, they should have focused on de-escalating the situation from that angle, rather than through violent and lethal force.

Michelle Lalonde, “Police shooting of Alain Magloire: What you need to know.” *Montreal Gazette*, January 12, 2015.

<http://montrealgazette.com/news/local-news/timeline-on-police-shooting-of-alain-magloire>

CBC News, “Alain Magloire's brother satisfied with report calling for better police training.” *Canadian Broadcasting Corporation*, March 8, 2016. <http://www.cbc.ca/news/canada/montreal/alain-magloire-coroner-report-brother-satisfied-mental-health-1.3482301>

**Jermaine Carby**, September 24, 2014 (Peel Regional Police)

Mr. Carby – who was the passenger of a vehicle operated by a *still-living* White driver – was shot and killed by police following a traffic stop. After allegedly walking towards the officer with a knife, which was not recovered at the scene but was dropped off by an officer several hours later, Mr. Carby was shot multiple times in his chest, left arm, and most troublingly, in his back. Shortly before his death, Mr. Carby had been “apprehended under the *Ontario Mental Health Act*” for trying to disarm a police officer. This suggests that the officers at the scene would have been aware of the fact that he had a mental illness once they had checked his name against their database.

The fact that the driver went unharmed has prompted serious questioning from the African Canadian community. Of particular concern is that Canadian police seemingly have no difficulty practicing professionalism in dealing with White individuals, but assess constant (*and killable*) threats when engaging African Canadians.

Wendy Gillis, “No charges against Peel police in death of Jermaine Carby.” *The Toronto Star*, July 21, 2015. <https://www.thestar.com/news/crime/2015/07/21/no-charges-against-peel-police-in-death-of-jermaine-carby.html>

Wendy Gillis and Alyshah Hasham, “Jermaine Carby taken in under Mental Health Act a month before police shot him dead.” *The Toronto Star*, July 31, 2015. <https://www.thestar.com/news/crime/2015/07/31/jermaine-carby-taken-in-under-mental-health-act-a-month-before-police-shot-him-dead.html>

**Andrew Loku**, July 5, 2015 (Toronto Police Service)

Mr. Loku, 45, was fatally shot by an officer responding to a call from Mr. Loku’s building that Loku was threatening another resident with a hammer. Mr. Loku was suffering from post-traumatic stress disorder, having been tortured in his native South Sudan.<sup>1</sup> The ACLC finds this killing particularly concerning because Mr. Loku resided in an apartment complex operated by the Canadian Mental Health Association. Therefore, the responding officers were aware that most of the individuals in that building were suffering from mental health differences and should have acted accordingly.

As expressed with all of these incidents and likely many others that are unaccounted for, it is imperative that police officers are trained to deal with individuals who display mental health differences. Anything less is unacceptable.

Wendy Gillis, “Police officer who shot Andrew Loku says he feared for his life.” *The Toronto Star*, June 14, 2017. <https://www.thestar.com/news/gta/2017/06/14/inquest-to-hear-from-officer-who-shot-andrew-loku.html>

**Abdirahman Abdi**, July 25, 2016 (Ottawa Police Service)

Mr. Abdi was brutally beaten to death by Ottawa police in an incident that left him handcuffed and “lying face down in a pool of blood.”<sup>1</sup> Police were called to a coffee shop over “reports of a disturbance” and engaged Mr. Abdi, who ran away in an attempt to return to his apartment. At this point, Mr. Abdi was tackled, pepper sprayed, and beaten with both a baton and reinforced gloves. This senseless beating continued even after Mr. Abdi was cuffed. Mr. Abdi had been dead for 45 minutes before being attended to by doctors.<sup>1</sup> Similar to the men in the other incidents mentioned in this report, Mr. Abdi was struggling mental health differences.

Ashifa Kassam, “Ontario police face inquiry into beating death of mentally ill black man.” *The Guardian*, July 26, 2016. <https://www.theguardian.com/world/2016/jul/26/canada-police-beating-abdirahman-abdi-ontario>

These are but a few examples of African Canadian men killed by Canadian police services since the last CERD Review in 2012. They establish a disturbing trend in Canadian policing whereby mentally ill, frequently unarmed African Canadian men are being repeatedly killed by police. This combines issues of racial profiling with the inability to address mental health differences, and presents a clear example of anti-Black racism.

Unfortunately, there are no disaggregated data on the total number of African Canadians shot and killed by Canadian police officers, including for the City of Toronto, Canada’s largest police force.<sup>121</sup> However, University of Toronto criminologist Scot Wortley reports that African Canadians are disproportionately subjected to police use of force incidents.<sup>122</sup> Furthermore, an independent investigation by the *Toronto Star* revealed that 18 of the 51 fatal police shootings since 1990 were of Black people.<sup>123</sup> This represents 35% of such shootings, despite Black people representing roughly 9% of Toronto’s population.<sup>124</sup> In 33% of cases, the race of the victim could not be identified with certainty owing to the information not having been recorded at the time of the shooting.<sup>125</sup> Nevertheless, even the most generous calculation suggests that Black people are overrepresented in fatal police shootings at a rate of 4:1.

The discussion around police use-of-force against people of African descent has rightfully been at the forefront of our social consciousness with the emergence of social movements such as Black Lives Matter. In many ways, it epitomizes, albeit tragically, the complex, pernicious nuances of institutional racism. It is not our submission that police officers wake up in the morning planning to take the life of a Black person. This is a discussion about danger, violence and race. It is about the subconscious danger and violence that is superimposed on Black bodies, which then manifests into a visceral fear that police and society at large use to excuse the killing African Canadians.

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<sup>121</sup> Wendy Gillis, “How many black men have been killed by Toronto police? We can’t know.” *The Toronto Star*, August 16, 2015. <https://www.thestar.com/news/crime/2015/08/16/how-many-black-men-have-been-killed-by-toronto-police-we-cant-know.html>

<sup>122</sup> *ibid*

<sup>123</sup> *ibid*

<sup>124</sup> *ibid*

<sup>125</sup> *ibid*

Paul Barret is a lecturer at McMaster University with the Department of English and Cultural Studies. He writes: “when [W]hite police officers kill Black men, Canadians look to a range of excuses and justifications that shift the blame from the killer to the killed.”<sup>126</sup> For example, explains Barret, “mental health problems transform racist killings into unfortunate tragedies,” or “reporters draw on [the] victim’s alleged criminal past.”<sup>127</sup> Stereotypes are used repeatedly because they work. They are used to viciously undermine the integrity, dignity, and humanity of Black lives.

Almost every single one of the men mentioned in the list of Black men killed since 2012 was suffering from mental illness. This does not undermine the fact that every single one of them deserves to be alive today. It is not enough for police to say they feared for their lives and then have society and the media hide their complicity by characterizing the interaction as just another ‘tragedy.’ Serving as a police officer is an honourable profession. It is also an inherently dangerous profession. Caution is necessary when using fear as the basis upon which to take another Black life, particularly when considering the inherently heightened levels of danger with which police officers are expected to interact.

When we accept the reasoning that police are justified in taking human lives because their victims did not immediately submit to their authority, we are condoning a complete abdication of training, responsibility and professionalism across Canadian police services. The Canadian institution of policing fails to see Black bodies as human. It views Black bodies as threats and targets. This is not always a result of overt racism by individual officers and there must be a conversation around systemic influences. Canadian institutions and systems have historically positioned ‘Blackness’ as something to be feared and continue to do so today. There is much that remains to be done in order to unpack and repair these institutions and restore the humanity to Black bodies.

### **Contravention of the CERD in Policing**

- **Article 2(1)(c):** Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists
  - The acts of racial profiling and carding need to receive harsher penalties. Regardless of legislation to the contrary, racial profiling has a strong presence in Canadian policing. Its effects are felt through the grossly disproportionate number of carding incidents within the Black population
- **Article 4(c):** State parties shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.
  - By not condemning more strongly racial profiling and Carding as serious issues within police forces, Canadian governments allow it to infect policing to the effect of disproportionality in carding, criminal justice, and police shootings. These are not ‘tragic’ isolated incidents. They result directly from African

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<sup>126</sup> Paul Barrett, “In Canada, the killing of Black men by police never seems to be about race.” *Rabble*, February 24, 2017. <http://rabble.ca/blogs/bloggers/2017-02-24t000000/canada-killing-black-men-police-never-seems-be-about-race>

<sup>127</sup> *ibid*

Canadians being profiled as dangerous criminals who require over-surveillance and control.

- **Article 5:** In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law.
- **Article 5(b):** The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution.
  - Canada does not offer African Canadians (1) equality before the law (see: Criminal Justice and Corrections) or (2) security and protection against violence or bodily harm from state agents. The disproportionate carding, arresting, and killing of African Canadians confirms that this alleged protection and fundamental right is not guaranteed.
- **Article 7:** States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and this Convention.
  - An absence of proper cultural competency and anti-Black racism training for police officers is a dereliction of Canada's duty to ensure that a fair and just police force is protecting Canadian society. As it stands, there is clearly rampant racial profiling within Canadian police services that can only be ameliorated via training officers to understand African Canadians. Failure to do so accommodates the persistence of anti-Black racism in Canadian policing.
  - The consistent under-resourcing of the SAPACCY and the failure to create and fund other such organizations contradicts African Canadians' right to the "promotion of understanding and tolerance" through culturally appropriate teaching with the intent to assist African Canadian youth in overcoming issues of mental health and addiction.

### Recommendations for Policing

- 1) The ACLC calls upon Canada to implement a National Strategy for the Use of Force by Canadian Police Officers. This National Strategy will be required to outline and implement a program in which officers must receive better training for (a) how to defuse potentially violent civilian interactions without the use of force, (b) when the use of force is justified, and (c) the proper use of the weapons available to them. For

example, the officer who killed Abdirahman Abdi apparently did not receive training for the ‘assault gloves’ he used to beat Mr. Abdi to death.<sup>128</sup>

- 2) The ACLC calls upon Canada to implement a National Mental Health strategy to better train police officers to prevent the criminalization of mental health differences and cease treating individuals suffering from these differences as dangerous. We urge the Canadian government to make this a priority to rectify the situation in which many African Canadians suffering from mental health differences find themselves when engaging with mental health treatment programs only after their interactions with police. This strategy should include:
  - a. Federal funding to the Provinces for mental health support teams in all police stations (successful pilot projects have been conducted in Ontario in the municipalities of Hamilton and Durham). In line with this recommendation is that of the Working Group, which recommends that the Government of Canada ensure that psychiatrists or psychologists accompany police officers in responding to mental health calls.
  - b. Increased culturally appropriate and relevant mental health awareness training on anti-Black racism to responding officers
  - c. Federal funding for culturally sensitive mental health treatment programs throughout the country
    - i. In the Province of Ontario, the ACLC calls for a sustained commitment to funding and staffing the SAPACCY. This intervention program should be used as a model for other Provinces and Territories.
  - d. The ACLC also adopts the Working Group’s Recommendation that the Government of Canada address the urgent mental health crisis in the African Canadian community through a thorough review of mental health legislation, operational priorities, and guidelines. It should establish a collaborative African Canadian Mental Health Working Group comprised of members of the African Canadian community, government and institutional partners in housing, child welfare, health, criminal justice and service providers.
- 3) The ACLC calls on the Government of Canada to conduct a National Inquiry into the shooting deaths of African Canadian men with mental health differences by Canadian police. All of the individuals discussed in this submission suffered from some type of mental health difference. Across the country, a mental health difference affected how each individual was treated by the responding officers and ultimately cost them their lives.
- 4) The ACLC calls for the City of Toronto to order the complete deletion of the Historical Database containing the information obtained from Field Information

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<sup>128</sup> Kristy Nease, “Deadly Weapon? Ottawa police assault gloves scrutinized after officer charged in death.” *Canadian Broadcasting Corporation*, March 14, 2017. <http://www.cbc.ca/news/canada/ottawa/ottawa-police-reinforced-gloves-abdirahman-abdi-1.4018998>

Reports/Contact Cards. This information was largely obtained unethically and is stolen property. All similar databases across Canada's different Municipalities, Provinces, and Territories should be deleted as well.

## VI. Criminal Justice and Corrections

Under Stephen Harper's government, Canada experienced a drastic policy recalibration towards what political scientist and University of Victoria Social Policy Professor Michael J. Prince describes as an "institutional-punitive conception of social policy."<sup>129</sup> Fundamentally, this featured a "shift from rehabilitation and social reintegration to punishment and social control in penal policy and practice."<sup>130</sup> This makes for a society where managing criminality is a mechanism for social control. A culture of criminalization precipitates a criminalization of culture.

Mr. Harper described social order as a measure of self-restraint (i.e. individual responsibility), in conjunction with "moral and legal sanctions on behaviour."<sup>131</sup> This characterization overlooks two facts: (1) jurisprudence derives from our social, moral, and ethical values, which are then transcribed into law; and (2) when laws are used to uphold a certain form of 'acceptable' morality and penalize any ostensibly deviant behaviour, the already-narrow White, Eurocentric framework of morality becomes increasingly exclusive and criminalizes divergent cultures. As happens with most other policies implemented by administrations that adhere to doctrines of "traditional" family values and 'individual responsibility,' our nation's poorest and most marginalized peoples become the most victimized.

Prince submits that Mr. Harper demonstrated a "predilection for exercising legal force rather than appealing to shared social values or building a public consensus on a given issue."<sup>132</sup> This dilution of the socio-cultural implications of criminality is a response that Prince argues "ignores issues of racism and colonialism, the child welfare systems, and the potential of preventative measures."<sup>133</sup>

While Harper's social policies were a response to the "recognition of [new] threats and wrongdoings associated with modern domestic life,"<sup>134</sup> the practical effect has been to penalize existing crimes more harshly and further indoctrinate marginalized communities into a cycle of harm. Institutions play an integral role in "managing human conduct and social interactions" which means that, in this context, institutions become essential to policing human behavior;<sup>135</sup> specifically, Prince lists the use of "police forces, border security and intelligence agencies, the courts, [and] jails and correctional services."<sup>136</sup> As Prince's list suggests, these institutions are interconnected. There should therefore be little surprise that essentially every single one of these institutions has been identified in this report for perpetuating systemic anti-Black racism in some capacity.

The subsequent section provides a quantitative landscape of exactly how these policies have harmed African Canadians.

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<sup>129</sup> Michael J. Prince, "Prime Minister as Moral Crusader: Stephen Harper's Punitive Turn in Social Policy-Making." *Canadian Review of Social Policy*, vol 71 (Spring 2015), 56

<sup>130</sup> Ibid, 66

<sup>131</sup> Ibid, 60

<sup>132</sup> Ibid, 63

<sup>133</sup> ibid

<sup>134</sup> Ibid, 60

<sup>135</sup> Ibid

<sup>136</sup> ibid



### Bail

Incumbent bail policies ensure that marginalized and racialized communities are disproportionately encumbered by increasingly harsh bail conditions. Legal Aid Ontario (LAO), the principal provider of publicly funded legal assistance in Ontario, published a report in 2016 which found that “accused persons... too often bear the brunt of [the] disconnect between the practical realities of bail and the overarching legal principles and protections accorded by law.”<sup>137</sup> We are concerned that “a majority of inmates at Ontario jails are not serving a sentence after having pled guilty or being found guilty” but are instead placed there after having been “remanded into custody [to await] a bail hearing or a trial.”<sup>138</sup> It is recognized in Canadian common law that, when an accused is denied access to bail, they are increasingly likely to take a plea and forgo the protections against wrongful convictions to which they are entitled.<sup>139</sup> A 2002 study revealed that the racial profiling and the over-policing of racialized communities results in African Canadians being “more likely to find themselves in pre-trial detention.”<sup>140</sup>

There is an “over-reliance on surety releases” for bail, which LAO describes as “effectively discriminatory against accused persons” who often “do not have access to persons in the community with sufficient private resources or standing to qualify as sureties.”<sup>141</sup> As a result, these socio-economically disadvantaged accused “are more likely to find themselves in remand custody pending trial (and for a longer period of time) than other accused who have a suitable surety and release plan.”<sup>142</sup>

In summary, African Canadians are: (a) more likely to be subject to pre-trial detention/remand custody; and (b) more likely to lack the socio-economic resources to get out of custody as a result of the surety mechanism for securing bail. Persons who spend increased time in remand custody are more likely to plead guilty to secure release and mitigate prison time. Therefore, the bail system’s current framework places access to justice within a certain tax bracket that often excludes African Canadians.

### Over-Representation

With a national population that is only 3% Black, African Canadians account for 9.5% of federal inmates in Canada.<sup>143</sup> This over-representation is caused, in part, by the fact that between 2003-2013, the federal African Canadian inmate population increased by 80%.<sup>144</sup> It should be noted that the majority of these years fell within the Harper government’s tenure.

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<sup>137</sup> Legal Aid Ontario, “A legal aid strategy for bail,” *LAO*, 2016. <http://www.legalaid.on.ca/en/publications/paper-legal-aid-strategy-for-bail-2016-11.asp>

<sup>138</sup> *ibid*

<sup>139</sup> See: *R. v. Hall*, 2013 ONSC 834 (CanLII), <<http://canlii.ca/t/fw1gs>>, cited in *ibid*

<sup>140</sup> *ibid*

<sup>141</sup> *ibid*

<sup>142</sup> *ibid*

<sup>143</sup> Ivan Zinger, “The Changing Face of Canada’s Prisons: Correctional Investigator Reports on Ethno-Cultural Diversity in Corrections,” [www.oci-bec.gc.ca](http://www.oci-bec.gc.ca). November 26, 2013. <http://www.oci-bec.gc.ca/cnt/comm/press/press20131126-eng.aspx>

<sup>144</sup> Howard Sapers, “Annual Report of the Office of the Correctional Investigator 2012-2013,” [www.oci-bec.gc.ca](http://www.oci-bec.gc.ca). June 28, 2013. <http://www.oci-bec.gc.ca/cnt/rpt/annrpt/annrpt20122013-eng.aspx>

It should be further noted that the rate of African Canadian youth (ages 12-17) in youth correctional facilities was reported as being 4x higher than their representation in the general youth population as of 2013.<sup>145</sup>

### Experiential Discrepancies

In addition to being over-represented in correctional facilities, African Canadians are 1.5x more likely to be incarcerated in facilities where “programming, employment [and job-skills training], education, rehabilitation, and social activities are limited.”<sup>146</sup> In a case study conducted by the Office of the Correctional Investigator in 2012-2013, Black inmates indicated that, while they had been provided with certain services and training, they felt these services did not “adequately reflect their cultural reality.”<sup>147</sup> Specifically, they “could not see themselves reflected in program materials and activities,” largely because they “were not rooted in their cultural or historical experiences.”<sup>148</sup>

In addition to sub-standard programming, African Canadian offenders are disproportionately subjected to solitary confinement (segregation), particularly in comparison to their White counterparts. Canadian prison expert Michael Jackson describes solitary confinement as “the most individually destructive, psychologically crippling and socially alienating experience that could conceivably exist within the borders of the country.”<sup>149</sup> In Canada, both explicitly disciplinary and ostensibly administrative segregation are utilized in prisons and penitentiaries as a form of discipline. Of particular concern is administrative segregation which, in theory, “is supposed to be used as a last resort for security or safety reasons or if an inmate requests it.”<sup>150</sup> However, officials have “very broad discretion to segregate people.”<sup>151</sup> Additionally, data show that administrative segregation “is most often used on the most vulnerable groups, particularly those suffering from mental illness, under the guise of safety concerns.”<sup>152</sup>

The use of segregation rose roughly 15% during Mr. Harper’s “tough on crime” regime.<sup>153</sup> The United Nations’ Working Group of Experts on People of African Descent (Working Group) recognized Canada’s problem with solitary confinement and, specifically, the disproportionate impact of its use on African Canadians. In its statement to the media following its official visit to

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<sup>145</sup> Jim Rankin and Patty Winsa, “Unequal Justice: Aboriginal and Black Inmates Disproportionately Fill Ontario Jails.” *Toronto Star*. March 1, 2013.

[https://www.thestar.com/news/insight/2013/03/01/unequal\\_justice\\_aboriginal\\_and\\_black\\_inmates\\_disproportionately\\_fill\\_ontario\\_jails.html](https://www.thestar.com/news/insight/2013/03/01/unequal_justice_aboriginal_and_black_inmates_disproportionately_fill_ontario_jails.html)

<sup>146</sup> Howard Sapers, “Annual Report of the Office of the Correctional Investigator 2012-2013,” [www.oci-bec.gc.ca](http://www.oci-bec.gc.ca). June 28, 2013. <http://www.oci-bec.gc.ca/cnt/rpt/annrpt/annrpt20122013-eng.aspx>

<sup>147</sup> *ibid*

<sup>148</sup> *ibid*

<sup>149</sup> The Canadian Press, “Prisons can reduce use of segregation dramatically, and safely: Editorial” (March 15, 2017) <https://www.thestar.com/opinion/editorials/2017/03/15/prisons-can-reduce-use-of-segregation-dramatically-and-safely-editorial.html>

<sup>150</sup> Powers, Lucas, “Solitary confinement reform in Canadian jails hindered by secretive system” (March 3, 2016) <http://www.cbc.ca/news/politics/solitary-confinement-canada-jails-1.3471209>

<sup>151</sup> Powers, Lucas, “Solitary confinement reform in Canadian jails hindered by secretive system” (March 3, 2016) <http://www.cbc.ca/news/politics/solitary-confinement-canada-jails-1.3471209>

<sup>152</sup> Anderson, Andrea, “The Race Problem with Solitary Confinement in Canadian Jails” (February 3, 2017) <https://byblacks.com/news/item/1559-story-of-canadian-female-freedom-fighter-told-in-new-film>

<sup>153</sup> Stone, Laura, “Howard Sapers: the man tasked to solve Canada’s corrections problem” (November 25, 2016) <https://www.theglobeandmail.com/news/politics/howard-sapers-the-man-tasked-to-solve-canadas-corrections-problem/article33057109/>

Canada in October 2016, the Working Group stated that it is “extremely concerned about the practice and excessive use of solitary confinement or ‘segregation’ in correctional facilities...and lack of data being kept on inmates’ race, mental health status or gender.”<sup>154</sup> The Working Group visited the Toronto South Detention Centre where it noted that “as many as forty percent of inmates in were of African descent” and that those prisoners who asserted their rights “were the subject of reprisals by prison guards through disciplinary sanctions including segregation.”<sup>155</sup> The increased use of lockdowns as a result of understaffing has “further curtailed the human rights of detainees who are predominantly African Canadians.”<sup>156</sup>

The data clearly show that, particularly within the years of the Harper government, the decision as to whom to admit to segregation and for what reason is heavily tainted by anti-Black racial bias. In its 2013 report on the experiences of Black inmates in federal prisons, the Correctional Investigator found that “all Black inmates were viewed as having gang affiliations by correctional staff, even where the label was demonstrably false.”<sup>157</sup> For roughly a decade, from March 2005 to March 2015, the number of Black inmates in federal custody grew by 77.5%, while their numbers in solitary rose by an overwhelming 100.4%. At the same time, the number of White inmates in segregation declined by 12.3%.<sup>158</sup>

While Prime Minister Trudeau offers a potentially paradigmatic shift in social thinking and policies in the field of criminal justice, African Canadians are still waiting to see substantive change that acknowledges and addresses the socio-cultural and systemic aggravators of criminality, rather than dealing with the issue by over-policing and convicting the vulnerable.

### Contravention of the CERD in Criminal Justice and Corrections

- **Article 2(1)(c):** Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists.
  - The over-incarceration of African Canadians is effectively discriminatory. It essentially guarantees continuous poverty through job restriction and family breakdown as a result of criminal convictions. As discussed throughout this submission, anti-Black racism directly increases African Canadians’ contact with the police and the criminal justice system. Canada is obligated to address this

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<sup>154</sup> United Nations Human Rights Office of the High Commissioner, *Statement to the media by the United Nations’ Working Group on People of African Descent, on the conclusion of its official visit to Canada, 17-21 October 2017* (October 21, 2016) <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20732&LangID=E>

<sup>155</sup> United Nations Human Rights Office of the High Commissioner, *Statement to the media by the United Nations’ Working Group on People of African Descent, on the conclusion of its official visit to Canada, 17-21 October 2017* (October 21, 2016) <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20732&LangID=E>

<sup>156</sup> United Nations Human Rights Office of the High Commissioner, *Statement to the media by the United Nations’ Working Group on People of African Descent, on the conclusion of its official visit to Canada, 17-21 October 2017* (October 21, 2016) <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20732&LangID=E>; see also Robin, Raizel, “The \$1-Billion Hellhole” (February 15, 2017) <http://torontolife.com/city/inside-toronto-south-detention-centre-torontos-1-billion-hellhole/>

<sup>157</sup> White, Patrick, “Use of solitary confinement for black inmates in federal prisons increasing” (May 28, 2015) <https://www.theglobeandmail.com/news/national/use-of-solitary-confinement-in-federal-prisons-has-increased-over-last-10-years/article24661862/>

<sup>158</sup> Office of the Correctional Investigator, *Administrative Segregation in Federal Corrections, 10 Year Trends* (May 28, 2015) at p. 2; White, Patrick, “Use of solitary confinement for black inmates in federal prisons increasing” (May 28, 2015) <https://www.theglobeandmail.com/news/national/use-of-solitary-confinement-in-federal-prisons-has-increased-over-last-10-years/article24661862/>

over-incarceration in order to reduce the over-criminalization of Black bodies. This process is a clear and malicious example of anti-Black racism.

- **Article 2(2)** States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved
  - In accordance with this Article, the current status of over-representation in the criminal justice system requires an African Canadian Justice Strategy complete with a Special Advisor to the Government from the African Canadian community. The situation necessitates continuous liaising between the Government and the African Canadian community such that the community can voice its concerns regarding over-representation and debilitating over-criminalization.
- **Article 3:** States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.
  - The disproportionate use of ‘administrative segregation’ as a punitive measure against African Canadian inmates operates as discriminatory segregation and is in direct contravention of Article 3.
- **Article 4(c):** States Parties shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination
  - By not attempting to ameliorate the courts’ and correctional institutions’ consistent over-incarceration of African Canadians with harsher penalties than other Canadians, the Government of Canada is permitting these institutions to promote racial discrimination.
- **Article 5(a):** In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights
  - (a) The right to equal treatment before the tribunals and all other organs administering justice
  - As expressed above, African Canadians receive harsher bail conditions and are forced to plead guilty more frequently than non-Black Canadians. Further, African Canadians generally receive longer prison sentences in inferior institutions. Therefore, African Canadians are not receiving equal treatment before the various state organs responsible for administering justice. This is a clear and obvious case of anti-Black racism.

**Recommendations for Criminal Justice and Corrections**

- 1) In line with the Working Group's Recommendation, the ACLC recommends that the Government of Canada develop an African Canadian Justice Strategy to engage with the African Canadian community to address and correct the over-representation of African Canadians at all levels of the justice system and to ensure anti-discriminatory and culturally specific services for African Canadian offenders.
- 2) The ACLC calls on the Government of Canada to conduct a National Inquiry into the over-representation of African Canadians in the criminal justice system.
- 3) The ACLC adopts the Working Group's Recommendation that the practice of segregation and solitary confinement must be abolished and alternatives should be explored.
- 4) The ACLC adopts the Working Group's Recommendation that the practice of carding or street checks and all other forms of racial profiling be discontinued, that police guilty of racial profiling should be prosecuted and, in addition, that there be increased staffing and training on anti-Black racism. We also adopt the Working Group's Recommendation that there be a cultural change and greater respect for the African Canadian community.
- 5) The ACLC adopts the Working Group's Recommendation that the Government of Canada monitor, through periodic, external, independent audits, police services practices.
- 6) The ACLC adopts the Working Group's Recommendation that the Government of Canada ensure independent oversight bodies for police departments and prisons include people of African descent.

## VII. Immigration

In recent years, immigration legislation and immigration detention have gained increasing focus as potential violators of human rights. In particular, the state of the Immigration Holding Centres (IHC) has drawn public scrutiny and criticism. In response, the Canada Border Services Agency (CBSA), the federally-mandated agency responsible for regulating Canada's borders and immigration processes, has recently unveiled a new National Immigration Detention Framework (NIDF).<sup>159</sup>

The CBSA acknowledged that its current facilities are inadequate and do not provide acceptable standards of care and treatment. The NIDF is the result of multiple consultations with and criticisms from community stakeholders over what improvements need to be made. The ACLC was included in these discussions and it is optimistic regarding the intent of the framework. However, there are outstanding areas of concern it emphasizes as paramount to the integrity of the immigration system.

### Infrastructure<sup>160</sup>

At present, there is no legislation or criteria determining “whether an immigration detainee is placed in a maximum-security jail rather than an immigration detention centre, and there are no means by which a detainee can appeal where they have been placed.”<sup>161</sup>

Immigration detainees who have not been convicted of a crime should not be treated like a criminal convict. Detainees should not be detained in maximum security facilities and IHCs should not resemble correctional facilities. The current reality defies this ideal. The CBSA reports that “approximately two-thirds of the total number of days spent in immigration detention in Canada is in provincial jails” due to inadequate capacity in CBSA facilities.<sup>162</sup> This is dehumanizing and unacceptable.

The ACLC also takes issue with the separation of detainees based on their classification as either “low-risk” or “high-risk.” We recommend a “medium-risk” category for individuals who do not fit perfectly into either existing category. The ACLC is concerned that the CBSA will err on the side of assigning detainees in this undefined area to the “high-risk” section of its facilities. There is no justification for placing non-violent detainees, criminal or otherwise, in a category with people who may be legitimate threats to public safety.

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<sup>159</sup> Canada Border Services Agency, “CBSA’s New National Immigration Detention Framework” January 2017. <http://www.cbsa-asfc.gc.ca/agency-agence/consult/consultations/nidf-cnmdi/menu-eng.html>

<sup>160</sup> African Canadian Legal Clinic, “CBSA National Immigration Detention Framework Submission,” May 22, 2017. Document available upon request

<sup>161</sup> Brendan Kennedy, “Caged by Canada” *The Toronto Star*, March 17, 2017. <https://www.thestar.com/projects/short/2017/03/17/caged-by-canada.html>

<sup>162</sup> Canada Border Services Agency, “CBSA’s New National Immigration Detention Framework” January 2017. <http://www.cbsa-asfc.gc.ca/agency-agence/consult/consultations/nidf-cnmdi/menu-eng.html>, 4

### **Minors in Detention<sup>163</sup>**

While we positively acknowledge the CBSA's commitment to reducing the detention of minors and the separation of families to the greatest extent possible, we remain concerned with the CBSA's ability to deliver. Under no circumstances should a child<sup>164</sup> be detained pending a hearing before the Immigration and Refugee Board of Canada (IRB).

The CBSA must design a set of alternatives to detention for detainees with children. It is unacceptable to detain children for the sole reason that their parents face deportation. For the purpose of protecting the interests of the child and for maintaining the family unit, accommodations should be made such that parents are prioritized against detention.

The temporary separation of parents from their children through detention or removal can lead to permanent family dissolution, or, alternatively, to the *de facto* deportation of Canadian citizens. Deporting a parent of a Canadian-born child (a citizen) forces them to either (1) abandon their child in the hope that s/he will have a better life despite being separated from her/his parents, or (2) take their child with them in what operates as the *de facto* deportation of Canadian citizens.

Additionally, there should be no removal orders for youth criminality. Canada needs to develop adequate youth immigration justice mechanisms to properly accommodate this vulnerable population.

This section is intentionally brief because there are simply no justifications for detaining children.

### **Determination of Risk<sup>165</sup>**

The CBSA guideline states that “where safety or security is not an issue, detention is to be avoided” for persons with mental health issues.<sup>166</sup> The ACLC seeks clarification on how an inmate's impact on safety or security is determined and specifically, on the objective measurements that are employed in calculating an individual's risk to either themselves or their community. The ACLC is concerned that individuals suffering from mental health illnesses might act in a way that could appear, on its face, to be ‘threatening,’ but that could be easily treated with proper diagnosis and programming. The previous section<sup>167</sup> illustrated how frequently mental illness is misperceived by officers as dangerous, and how it often this misperception results in avoidably violent ends.

Research demonstrates that “immigration detention exhibits the qualities of an invalidating environment,” which is defined as an environment wherein “a person's emotional experiences

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<sup>163</sup> African Canadian Legal Clinic, “CBSA National Immigration Detention Framework Submission,” May 22, 2017. Document available upon request

<sup>164</sup> “Child” here refers to someone less than 18 years of age.

<sup>165</sup> African Canadian Legal Clinic, “CBSA National Immigration Detention Framework Submission,” May 22, 2017. Document available upon request

<sup>166</sup> CBSA Detention Framework, 6

<sup>167</sup> “Policing”

are not appropriately responded to or where responses are highly inconsistent.”<sup>168</sup> By failing to “address the cause of [a detainee’s] distress,” detention facilities and staff promote “emotional and behavioural dysregulation” which entails the “loss of ability to regulate one’s emotional responses to situations.”<sup>169</sup> Therefore, while individuals may exhibit ‘dangerous’ behaviour resulting from the harsh conditions when in detention, this is not always an accurate indicator of the threat (or lack thereof) they may pose to the community.

There are ways to mitigate this effect: validation is “identified as a key factor leading to emotional regulation and subsequent decrease in distress and problematic behaviours.”<sup>170</sup> Validating responses “are not necessarily positive,” but they “do convey legitimacy and acceptance of the other’s experience or behaviour.”<sup>171</sup> Recognition of culture may therefore be an insulating mechanism against the detriments to health inherent to detention.

### **Culturally Sensitive Programming**<sup>172</sup>

Canada’s Black community is internally diverse. This diversity must be understood and reflected in the assessment of Black detainees, who cannot be served by a ‘one size fits all’ approach. The CBSA must adopt an approach that recognizes that cultural differences exist across continents, sub-regions, and countries. Of particular importance is the CBSA recognizing that many African migrants are fleeing situations of violence, famine, or forced dislocation. The impact of these traumatic experiences on one’s psyche is important to understand when assessing their health. In detention environments, “high rates of pre-migration torture and trauma exposure render the detainees vulnerable to the traumatic effects of invalidation,” as described above.<sup>173</sup>

The CBSA should therefore personalize treatment based on the situation or environment in the individual’s country of origin. Failure to do so will risk putting communities into boxes that fail to accurately account for their different geographic or cultural experiences. The programming employed should be designed in consultation with community agencies, non-governmental organizations, and other stakeholders who are connected to or representative of the demographic in question.

### **Long-Term Detention**<sup>174</sup>

Uncapped limits on detention are a major concern for the African Canadian community. The CBSA lists among the factors that contribute to detention length: (1) an unwillingness to “cooperate with obtaining documents necessary to establish identity or necessary in order to be able to be removed from Canada” and (2) “difficulty in obtaining a foreign government’s

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<sup>168</sup> Stephen Brooker et al., “Challenges to Providing Mental Health Care in Immigration Detention.” *Global Detention Project*, Working Paper 19. December 2016. <https://www.globaldetentionproject.org/wp-content/uploads/2016/12/Brooker-et-al-GDP-paper-2016.pdf> page 3

<sup>169</sup> Ibid

<sup>170</sup> Ibid, 8

<sup>171</sup> Ibid

<sup>172</sup> African Canadian Legal Clinic, “CBSA National Immigration Detention Framework Submission,” May 22, 2017. Document available upon request

<sup>173</sup> Brooker, Challenges to Providing Mental Health Care, 9

<sup>174</sup> African Canadian Legal Clinic, “CBSA National Immigration Detention Framework Submission,” May 22, 2017. Document available upon request



cooperation in issuing travel documents.”<sup>175</sup> The ACLC’s concern with these determinants is that many Black detainees may be arriving from or fleeing countries whose capacity to accommodate the requirements of the Canadian government is exceedingly strained. Further, certain countries may have compromised governance structures that simply cannot comply with Canada’s demands. If an individual is fleeing civil war in Sudan or Somalia, for example, it is unreasonable to expect that they would have procured official identification before leaving the country. It is equally unreasonable to rely on their home government to deliver the requisite information in a timely manner.

The proposed framework acknowledges that “checks and balances” operate against otherwise arbitrary detention lengths.<sup>176</sup> Chief among these safeguards is a detention review within 48 hours of initial detention where a member of the Immigration Division of the Immigration and Refugee Board determines whether prolonged detention is justified under the *Immigration and Refugee Protection Act (IRPA)*.<sup>177</sup> This process is described as “adversarial,” where the member hears arguments in favour of detention from the Minister’s counsel and the detainee (or his/her counsel) responds.<sup>178</sup>

The ACLC is concerned that, instead of insulating a detainee from arbitrary detention, this process structurally enforces it. While a hearing within 48 hours is, in theory, an effective means of avoiding an immediately prolonged detention, it restricts the window an individual has to retain counsel and consult with them prior to delivering an argument. Detainees “are often unrepresented” and the government’s evidence “is not tested as it would be in criminal court and the longer someone is in detention the less likely it is that they will be released.”<sup>179</sup> Additionally, the burden of proof is effectively on the detainee to convince the board that the initial assessment was unequivocally wrong.<sup>180</sup>

Alternatively, a detainee may be unable to retain counsel, in which case they are forced to argue against trained Government counsel in a forum and language with which they are likely unfamiliar. Compounded with the situational stress of either detention or deportation looming, this process is systemically inhospitable to adequate advocacy.

The following 4 examples illustrate how the detention system can and does go awry, thereby subjecting detainees to inhumane conditions.

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<sup>175</sup> Canada Border Services Agency, “CBSA’s New National Immigration Detention Framework” January 2017. <http://www.cbsa-asfc.gc.ca/agency-agence/consult/consultations/nidf-cnmdi/menu-eng.html>. Page 8

<sup>176</sup> *ibid*, 8

<sup>177</sup> Immigration and Refugee Board of Canada, “Detention Review Process.” August 14, 2015. <http://www.irb-cisr.gc.ca/Eng/BoaCom/references/procedures/Pages/ProcessRevMot.aspx> (SC 2001, c 27)

<sup>178</sup> *ibid*

<sup>179</sup> Brendan Kennedy, “Caged by Canada” *The Toronto Star*, March 17, 2017. <https://www.thestar.com/projects/short/2017/03/17/caged-by-canada.html>

<sup>180</sup> *ibid*

**1) Kashif Ali**

Kashif Ali is a West African man who was detained for 7 years in a Canadian maximum-security prison without having been convicted of a criminal offence. Mr. Ali was born in Ghana but “his birth was never registered” and he “never had legitimate identity documents.” Canada attempted to deport him for 20 years, but was unsuccessful because neither Ghana nor Nigeria (his mother’s country of origin) would accept him without proof of citizenship. Mr. Ali’s ordeal ended only with the intervention of the Ontario Superior Court of Justice.

It is unreasonable, unfair, and inhumane to detain someone for seven years when the principal reason they cannot be deported is non-compliance from a foreign government.

Brendan Kennedy, “Jailed seven years by Canada, Kashif Ali now walks free.” *The Toronto Star*. April 28, 2017. <https://www.thestar.com/news/canada/2017/04/28/jailed-seven-years-by-canada-kashif-ali-now-walks-free.html>

**2) Alvin Brown**

Mr. Brown spent five years in a maximum-security immigration detention centre while awaiting deportation to Jamaica. Mr. Brown suffers from schizophrenia and has lived in Canada since childhood. He was stripped of permanent residency and served with a deportation order, but the Jamaican government refused to provide travel documents, thereby obstructing the deportation process.

Mr. Brown’s case parallels Mr. Ali’s case: struggles with mental health and non-compliant foreign governments. It is inhumane to subject Mr. Brown to maximum-security conditions as a *de facto* hostage to a recalcitrant foreign government.

Shanifa Nasser, “Federal Court hearing landmark challenge on indefinite immigration detention.” *The Canadian Broadcasting Corporation*. May 15, 2017. <http://www.cbc.ca/news/canada/toronto/immigration-detention-canada-challenge-1.4114908>

Colin Perkel, “Jamaican Alvin Brown finally deported but damages urged for his 5-year immigration detention.” *CTV*. September 7, 2016. <http://toronto.ctvnews.ca/jamaican-man-held-in-immigration-custody-for-five-years-could-be-deported-next-week-1.3054537>

3) **Ebrahim Toure**

Mr. Toure has spent 4 years in a maximum security facility. He fled Guinea in 2011 under pressure from a local gang that he believed had murdered his uncle, but his claim was denied. He now languishes in a maximum-security prison. He is now being held as a failed refugee claimant, despite not having ever been charged with a crime in Canada.

Mr. Toure has indicated that he would happily return to The Gambia, his birthplace, or Guinea, where he grew up; however, he is being held because the government cannot deport him given that neither country will receive him without proper identification which he does not have.

Mr. Toure claims his detention has brought upon bouts of mental illness and occasional suicidal thoughts.

Kennedy, *Caged by Canada*

4) **Abdurahman Ibrahim Hassan**

Mr. Hassan was a Somali refugee who spent three years in prison on immigration detention. Mr. Hassan was schizophrenic and diabetic. He was “restrained by police and medical personnel” and transferred to a hospital in Peterborough, Ontario, where he died on June 11, 2015.

Colin Perkel, “Refugee who died in immigration custody ID’ed as Somali with mental health issues.” *The Canadian Press*, June 19, 2015. <http://globalnews.ca/news/2064690/refugee-who-died-in-immigration-custody-ided-as-somali-with-mental-health-issues/>

It is unacceptable for Canada to arbitrarily detain individuals who are (a) mentally ill, and (b) effectively at the mercy of governments who do not want them. While Prime Minister Trudeau’s Liberal government announced plans for a “fairer” and more transparent immigration detention system – and, to its credit, it has detained relatively fewer people than did the Harper government – there has not been any “meaningful change in policy [to] end a system criticized as inhumane, arbitrary and a violation of international law.”<sup>181</sup>

There are particular sections of the *IRPA* that have substantial implications for the African Canadian community. Additionally, the *IRPA* interacts with other legislation in such a way as to place Black foreign nationals at serious risk of deportation. This legislative relationship is often not understood or misunderstood by defence counsel, Crown prosecutors and presiding judges. As a result, our justice system is seeing a number of guilty pleas appealed and sentences

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<sup>181</sup> Kennedy, *Caged by Canada*

challenged on the grounds that the plea was uninformed or that the sentence did not consider potential immigration consequences and is therefore disproportionate.<sup>182</sup>

Section 36(1) of the *IRPA* states that:

“...any permanent resident or foreign national is inadmissible on the grounds of serious criminality for:

(a) Having been convicted in Canada of an offence under an Act of Parliament punishable by a maximum term of imprisonment of at least 10 years, or of an offence under an Act of Parliament for which a term of imprisonment of more than six months has been imposed;

(b) Having been convicted of an offence outside Canada that, if committed in Canada, would constitute an offence under an Act of Parliament punishable by a maximum term of imprisonment of at least 10 years; or

(c) Committing an act outside Canada that is an offence in the place where it was committed and that, if committed in Canada, would constitute an offence under an Act of Parliament punishable by a maximum term of imprisonment of at least 10 years.”<sup>183</sup>

Section 64 of the *IRPA* removes the right to appeal if the individual has been: (1) ruled inadmissible on the grounds of serious criminality or security; and, (2) specifies that ‘serious criminality’ refers to the definitions outlined in subsection 36(1).<sup>184</sup>

An example of the tandem relationships between the *IRPA* and other legislation is its interaction with the mandatory minimum penalties (MMP) provision of the *Controlled Drugs and Substances Act (CDSA)*. Contained within the *Safe Streets and Communities Act (2012)* are amendments to the *CDSA* that hold significant consequences for Black foreign nationals in terms of their immigration status under the *IRPA*.

The maximum penalty for Schedule II drugs (including marijuana) was increased from 7 to 14 years as a result of the *Safe Streets Act (2012)*.<sup>185</sup> By elevating the maximum penalty past the 10 year threshold as outlined in the *IRPA*, the *CDSA* now ensures that individuals in possession of even minor amounts of these drugs might be ruled inadmissible to Canada for ‘serious criminality.’

This has serious implications for African Canadians. The *Toronto Star* reports that African Canadians with no criminal record are “three times more likely to be arrested by Toronto police

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<sup>182</sup> For example, see: *R. v. Wong*, 2016 BCCA 416 (CanLII), *R. v. Pham*, [2013] 1 SCR 739, 2013 SCC 15 (CanLII), *Guzman c. R.*, 2011 QCCA 136 (CanLII)

<sup>183</sup> Government of Canada, “Immigration and Refugee Protection Act (S.C. 2001, c. 27)” *Justice Laws Website*, June 16, 2017. <http://laws-lois.justice.gc.ca/eng/acts/i-2.5/section-36.html>

<sup>184</sup> Government of Canada, “Immigration and Refugee Protection Act (S.C. 2001, c. 27)” *Justice Laws Website*, June 16, 2017. <http://laws.justice.gc.ca/eng/acts/I-2.5/section-64.html>

<sup>185</sup> Public Prosecution Services of Canada, “6.2 Mandatory Minimum Penalties for Particular Drug Offences under the *Controlled Drugs and Substances Act*.” *PPSC*, June 29, 2016. <http://www.ppsc-sppc.gc.ca/eng/pub/fpsd-sfpg/fps-sfp/tpd/p6/ch02.html>

for possession of small amounts of marijuana than [W]hite people” and are also the racial group most likely to be detained for bail<sup>186</sup> This disparity exists despite the fact that, according to University of Toronto Criminologist Scot Wortley and the 2015 Ontario Student Drug Survey, there are minimal data suggesting higher rates of drug *use* amongst African Canadians.<sup>187</sup>

This trend suggests that (a) racial profiling of African Canadians leads to disproportionately high rates of arrest for marijuana<sup>188</sup> which then result in (b) a disproportionate number of African Canadians facing detention. As discussed previously,<sup>189</sup> African Canadians are less likely to make bail, and individuals who spent longer periods of time in bail detention are more likely to plead guilty. Thus, the ‘serious criminality’ and ‘inadmissibility’ provisions of the *IRPA* operate to effectively discriminate against Black people in Canada.

Additionally, the amendments contain a list of factors considered to aggravate the severity of the crime. This list includes if the crime was committed “for the benefit of, at the direction of, or in association with a criminal organization.”<sup>190</sup> This is particularly concerning given the socio-economic deprivation Black people in Canada are subjected to. This deprivation can create an impetus for what are colloquially referred to as ‘crimes of desperation.’

The trial judge in *R v. Hamilton*, a 2004 drug importation case in Ontario, assessed conditional sentences on the 2 defendants precisely to avoid triggering potential deportation.<sup>191</sup> The two defendants were young, single, Black mothers with limited education and employment potential who “had no involvement in the proposed distribution” of the drugs.<sup>192</sup> The trial judge categorized these women as “targeted” and “conscripted” by drug dealers in Jamaica who agreed to assist them in order to “pay rent, feed [their] children and support a subsistence-level existence.”<sup>193</sup> He ruled that, “because of their race, gender and poverty,” they were “particularly vulnerable targets to those who sought out individuals to act as cocaine couriers.”<sup>194</sup> He proceeded to say that their individual responsibility was “diminished by the effects of systemic racial and gender bias” and that society “had to take its share of the responsibility for the crimes of the accused.”<sup>195</sup>

This case exemplifies one of the ACLC’s fears: foreign drug organizations targeting socio-economically vulnerable individuals, particularly Black single mothers who assist these organizations out of desperation. Despite not exhibiting any signs of criminal intent, these marginalized individuals are the most severely penalized. Therefore the marriage between these laws is operationally discriminatory against Black people.

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<sup>186</sup> Jim Rankin, “Toronto Marijuana Arrests reveal ‘startling’ racial divide.” *The Toronto Star*, July 6, 2017.

<https://www.thestar.com/news/insight/2017/07/06/toronto-marijuana-arrests-reveal-startling-racial-divide.html>

<sup>187</sup> *ibid*

<sup>188</sup> There are no current studies with arrest rates for other Schedule I/II narcotics, but given the disparities across the entire justice system, the ACLC believes they are similarly disproportionate

<sup>189</sup> See (Criminal Justice and Corrections)

<sup>190</sup> *ibid*

<sup>191</sup> *R. v. Hamilton*, 2004 CanLII 5549 (ON CA), para 6 <<http://canlii.ca/t/1hmc9>>, retrieved on 2017-06-29

<sup>192</sup> *Ibid*, para 114

<sup>193</sup> *Ibid*, para 73

<sup>194</sup> *Ibid*, para 6

<sup>195</sup> *Ibid*, para 114

### Contravention of the CERD in Immigration

- **Article 1(1):** In this Convention, the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.
  - The ACLC has received an abundance of anecdotal evidence from immigration workers and lawyers that many detainees and youth detainees are racialized. It is the ACLC's submission, therefore, that the detention of children is so uncalled for and egregious as to directly impair their ability to "enjoy human rights on an equal footing" as other persons in Canada and precludes their access to the fundamental freedoms as stated in Article 1(1).
  
- **Article 1(2):** This Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens.
  - The ACLC submits that this article is circumvented by the *de facto* deportation of Canadian-born minors whose parents are removed from Canada. By exercising its powers to remove a non-citizen, the state effectively forces the removal of a dependent citizen (the child); alternatively, the child must grow up without his/her parents.
  
- **Article 1(3):** Nothing in this Convention may be interpreted as affecting in any way the legal provisions of States Parties concerning nationality, citizenship or naturalization, provided that such provisions do not discriminate against any particular nationality
  - The ACLC submits that the current immigration landscape in Canada is sufficiently in crisis so as to undermine the provision that they are non-discriminatory.
  - Black people in Canada are facing increasingly harsh sentences both within and extraneous to the *Criminal Code*. One effect of this is being at greater risk of removal for 'serious criminality' despite committing minor offences.
  - The strict requirements of the Canadian government for proper, verifiable documentation from foreign governments effectively targets Black people, many of whom are fleeing states engaged in conflict or other forms of crisis. As seen above, non-compliance can and does result in indescribably disproportionate detentions in maximum facilities. This is a violation of these individuals' human rights and dignity.
  
- **Article 1(4):** Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved
  - Under Article 1(4), Canada is authorized and obligated to implement "special measures" for the protection of certain groups. The ACLC considers the negative implications of youth detention to warrant such measures *against it* such that

Canada create and implement policies strictly prohibiting the detention of minors and providing them and their families with an alternative to incarceration. This applies as well to situations wherein individuals are detained but have children who are Canadian citizens.

- **Article 5(d)(ii):** In compliance with the fundamental obligations laid down in Article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

...

(d) Other civil rights, in particular

...

(ii) The right to leave any country, including one's own, and to return to one's country

- This article is contravened by arbitrary and uncapped detentions. Many individuals detained under the auspices of an immigration hold would opt to return to their home country if afforded that opportunity. This article is not restrictive to Canadian citizens; as such, the right to leave *any* country should (a) apply to Canada's own borders, and (b) be extended to those who seek to leave Canada after having been contained in such an inhumane manner.

### **Recommendations for Immigration**

- 1) The ACLC encourages the Government of Canada to introduce legislation prohibiting the detention of children (under 18).
  - a. In the absence of official data detailing the racial backgrounds of minors in detention, we have heard from numerous members of the legal community that most of these children are racialized
- 2) The ACLC encourages the Government of Canada to introduce a maximum detention period and prohibit arbitrary long-term detentions. These detentions are an affront to human rights and, as demonstrated herein, have a highly disproportionate and discriminatory effect Black individuals.
- 3) The ACLC encourages the Government of Canada to introduce a legislative mechanism by which those without immigration status who do not present a danger to public safety can be released into the community until their matter has been resolved.
- 4) The ACLC encourages the Government of Canada and the CBSA to review the current policies that enforce the removal of foreign nationals with Canadian born children. These policies operatively produce either (1) Canadian children forced to grow up without their parents, or (2) the de facto deportation of Canadian children with their parents. Both are unacceptable.

## VIII. Poverty and Employment

The rampant poverty in the African Canadian community is an open secret, hidden only by the Government's unwillingness to comprehensively track the numbers. With this in mind, this report will still discuss racialized poverty with a specific eye to poverty within the African Canadian community.

### Poverty

Poverty is a pernicious illness that has a dire effect on every facet of life for its victims. Unfortunately, racialized individuals in Ontario are particularly likely to endure poverty: nearly twice as many racialized Ontarians (20%) are living in poverty as White Canadians (11%).<sup>196</sup>

Following its visit to Canada in the fall of 2016, the Working Group published its preliminary report. The report paints a bleak picture for African Canadians' economic health. One-quarter of African Canadian women are living below the Canadian poverty line, compared to just 6% of White Canadian women.<sup>197</sup>

Tragically, but unsurprisingly, poverty is intergenerational: one-third of children of Caribbean heritage are living below the poverty line and nearly *one-half* of children from continental Africa are living below the poverty line in Canada.<sup>198</sup> For frame of reference, 18% of White Canadian children live below the poverty line.<sup>199</sup>

### Employment

Although a number of systemic, institutional, and other qualitative factors contribute to poverty, Black people in Canada must also contend with restricted access to employment and a severe wage gap vis-à-vis their White counterparts.

The unemployment rate for African Canadian women (11%) is 4% higher than the average rate for all Canadians.<sup>200</sup> Despite having relatively high labour force participation measured against other racial and ethnic demographics, African Canadians have a relatively low employment rate (the second highest unemployment rate in the country).<sup>201</sup>

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<sup>196</sup> Sheila Block, Grace-Edward Galabuzi, and Alexandra Weiss, "The Colour Coded Labour Market By the Numbers: A National Household Survey Analysis" (2014) *Wellesley Institute*, <http://www.wellesleyinstitute.com/wp-content/uploads/2014/09/The-Colour-Coded-Labour-Market-By-The-Numbers.pdf>, i

<sup>197</sup> United Nations Working Group of Experts on People of African Descent, "Statement to the media by the United Nations' Working Group of Experts on People of African Descent, on the conclusion of its official visit to Canada, 17-21 October 2016." United Nations Office of the High Commissioner, October 21, 2016.

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20732&LangID=E>

<sup>198</sup> *ibid*

<sup>199</sup> *ibid*

<sup>200</sup> *ibid*

<sup>201</sup> Sheila Block and Grace-Edward Galabuzi, "Canada's Colour Coded Labour Market: The gap for racialized workers." *Wellesley Institute* (March 2011) 8



A wage gap persists for African Canadians vis-à-vis other racial groups, particularly White Canadians. Across Canada's many racial and ethnic communities, African Canadians have, on average, the third-lowest employment income (male and female).<sup>202</sup>

According to the Working Group, African Canadian women earn 15% less than White women, and 37% less than White men.<sup>203</sup> Additionally, Canadians who identify as Black earn “75.6 cents for every dollar a non-racialized worker earns” which amounts to an “annual earnings gap of \$9,101.”<sup>204</sup>

The importance of this earnings gap cannot be overstated. This is the difference between ‘good’ lunches, and lunches that trigger calls to the Children’s Aid Society. This is the difference between having a ‘special needs’ child with no actual special help, and a clinical diagnosis that leads to an effective individualized education program (IEP). This can be the difference between a child with poor eyesight struggling to read and study, and a child with reading glasses or a private tutor. For people living in the grip of poverty, *every dollar counts*. African Canadian children are starving socially and educationally. They are hungry for the basic human dignities that are not afforded to them on account of their marginalization and racialization.

While the Federal government announced a national Poverty Reduction Strategy in 2017, it is imperative that this strategy specifically and strongly address *African Canadian* poverty.<sup>205</sup> Poverty is a societal illness and it has reached endemic levels in the African Canadian community. As with any illness, the community requires a prescription and a plan of treatment specific to the way it experiences that illness. Black poverty conjoins with and upholds other forms of anti-Black discrimination and it metastasizes across each area discussed in this Shadow Report. Canada owes its African Canadian community more than this; it is time that they finally make real change happen for African Canadians.

### Contravention of the CERD in the areas of Poverty and Employment

- **Article 5(e)(i):** In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

...  
(e) Economic, social and cultural rights, in particular:

- ...  
(i) The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration
- African Canadians are clearly not protected from unemployment (relatively high labour force participation, relatively low employment rate); are not receiving

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<sup>202</sup> Ibid, 4

<sup>203</sup> Working Group, 2016

<sup>204</sup> Block and Galabuzi, *Colour Coded Labour Market* (2011), 13

<sup>205</sup> Government of Canada, “Poverty Reduction Strategy,” June 16, 2017. <https://www.canada.ca/en/employment-social-development/campaigns/poverty-reduction.html>.

equal pay for equal work; and are often restricted to precarious labour.<sup>206</sup> This contradicts the entirety of Article 5(e)(i), and suggests that Canada has failed in its duties to African Canadians. Further inaction is discriminatory. Action must be taken to combat African Canadian poverty. In this context, passivity constitutes active enforcement of anti-Black racism.

- **Article 5(e)(iv):** The right to public health, medical care, social security and social services
  - Poverty underlies all of the issues discussed herein. It precludes access to all of the necessary social services listed above. This consequently precipitates problems that become criminalized (for example, mental health differences) or further impoverished. However, particular attention must be paid to African Canadian child poverty. As previously discussed,<sup>207</sup> the African Canadian population is amongst the youngest and the fastest growing communities in Canada. If the Government of Canada does not address youth poverty immediately, it is condoning the systematic reproduction and entrenchment of Black poverty. Allowing African Canadian youth to grow up in conditions of poverty excludes these children from developing to their full potential and makes it exponentially harder for African Canadians to escape impoverishment with each successive generation. The ACLC cannot enforce the following statement enough: poverty props up anti-Black racism, and inaction against poverty is a form of anti-Black discrimination.

### Recommendations for Poverty and Employment

- 1) The ACLC encourages the Government of Canada to allocate funding from Canada's Poverty Reduction Strategy specifically for addressing and ameliorating the high rates of poverty, employment, and housing for African Canadians
- 2) The ACLC adopts the Working Group's Recommendation that the Government of Canada systematically and effectively address employment disparity for African Canadians through the enactment of employment equity legislation.
- 3) The ACLC urges the Government of Canada to develop and implement a National Employment Strategy for African Canadians to address the rampant unemployment, precarious employment, and underemployment of African Canadians. In particular, attention should be directed to Black youth in Toronto.
  - a. Increase access to jobs and skills training programs for African Canadian employment;
  - b. Develop programs to provide employment skills training to African Canadian students enrolled in Applied courses;
  - c. Train at-risk African Canadian youth in schools and juvenile detention facilities.

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<sup>206</sup> Block et al., *Colour Coded Labour Market* (2014), 2

<sup>207</sup> See "Education"

## IX. Conclusion

Throughout its submission, the ACLC has aimed to make one point abundantly clear: while the Canadian government has effectively addressed overtly discriminatory laws, policies, and practices, racial discrimination and prejudice continue to exist and thrive in our society due to how our laws and policies are applied (or conversely, how they are not applied in certain cases). Ostensibly impartial practices become differential in their impact when they exist and operate within an ideological landscape that favours a dominant White, Eurocentric socio-cultural methodology.

The Canadian government pledged to adhere to the Articles outlined within the Convention on the Elimination of all Forms of Racial Discrimination. In no uncertain terms, it is still failing the African Canadian community in this regard. The embodiment of racism less frequently appears in official laws, monuments, and buildings than in previous generations. Make no mistake: Canada and the African Canadian community have made substantial progress in combating racism, specifically anti-Black racism. But racism is in many ways a more pernicious, reticent enemy now than it has ever been. It conspires behind closed doors within our institutions, organizations and, most importantly, within our thoughts and assessments of human value. We must understand that our institutions, our cultural systems and we ourselves are not unbiased thinkers. Decisions are made within a forum that was designed and is regulated by agents of a specific culture, a culture that has historically been antagonistic to the Black community. While the relationship has improved, there is much work yet to do. We must take opportunities such as this to further unpack and renovate this forum in order to create a healthier, kinder and thriving Canada, where all persons are *Canadian* not just nominally, but experientially as well. Until this happens, anti-Black racism and discrimination will continue to linger and the Black community will continue to languish.

The ACLC welcomes the opportunity to present this Shadow Report to the Committee. It appreciates and awaits the Committee's thoughtful contributions and endorsements of the recommendations presented in this report on behalf of the African Canadian community.

## X. Summary of Recommendations

The disparities demonstrated in the areas of child welfare, education, police interaction, criminal justice, immigration, and poverty are all **manifestations of anti-Black racism**. Having ratified the CERD, the Government of Canada is obligated to address these areas within the context of combating and eliminating racial discrimination. Below, the ACLC presents its recommendations to assist the Government achieve its stated goal.

While the Clinic adopts several specific recommendations from the draft report of the United Nations' Working Group of Experts on People of African Descent (hereafter "Working Group") from its October 21, 2016, statement to the media (hereafter "Recommendation") for the purposes of this report, the ACLC supports all recommendations put forward by the Working Group in its Statement.

- 1) The ACLC reiterates the need for Canada to address the CERD's recommendations from its assessment of Canada in 2012. In particular, Recommendations 11, 16, and 22 require immediate attention.
- 2) The ACLC adopts the Working Group's Recommendation that African Canadians be legally recognized as a distinct group who have made and continue to make profound economic, political, social, cultural and spiritual contributions to Canada.
- 3) The ACLC adopts the Working Group's Recommendation that the Government of Canada implement a nation-wide mandatory disaggregated data collection policy, based on race, colour, ethnic background, national origin and other identities, to determine if and where racial disparities exist for African Canadians to address them accordingly. Specific areas of disaggregated data collection which require immediate focus are:
  - a. In **child welfare**: all Children's Aid/Child welfare organizations in Canada must collect and release data disaggregated by race and ethnicity detailing: the number of children taken by CASs, where children end up after being apprehended by CASs, how many children are returned to their families after being apprehended by CASs, the cause of removal, and the primary source referral (i.e. school and police versus family member). This list is non-exhaustive.
  - b. In **education**: all Canadian school boards must collect and release data disaggregated by race and ethnicity detailing (non-exhaustive): test scores and other measurements of academic success, suspensions (both in and out of school), expulsions, graduation rates, drop-out rates, academic streaming, special needs enrolment, and Individual Education Plans (IEPs)
  - c. In **policing**: all Canadian police services must collect and release data disaggregated by race and ethnicity detailing: traffic stops (pedestrian and vehicular), civilian searches, arrests, releases, accused found not guilty by virtue of mental health differences in forensic wards, and deaths in forensic wards. This list is non-exhaustive.

- d. In **criminal justice**: all Canadian courts and correctional facilities must collect and release data disaggregated by race and ethnicity detailing: bail outcomes, convictions, guilty pleas, information on the crimes committed, level of detention (i.e the security of the facility), the demographic percentages of each facility, length of sentence, segregation, and solitary confinement. This list is non-exhaustive.
  - e. In **immigration**: The CBSA must collect and release data disaggregated by race, ethnicity, and country of origin detailing detentions, detention length, and both Canadian and non-Canadian born minors in detention. This list is non-exhaustive.
  - f. In **poverty and employment**: Canada must collect and release data disaggregated by race and ethnicity detailing: the number of individuals living below the low income cut off, access to housing, access to employment, precarious labour employment, average income (for both men and women), labour force participation, and unemployment. This list is non-exhaustive.
- 4) The ACLC adopts the Working Group's Recommendation that the Government of Canada create a National Department of African Canadian Affairs to represent the interests of African Canadians in the national Government, to research and develop policies to address issues facing African Canadians.
- 5) The ACLC adopts the Working Group's Recommendation that the Government of Canada undertake impact-oriented activities in the framework of the International Decade for People of African descent to bridge the existing gaps between policies and practice, including through the implementation of relevant recommendations for recognition, justice and development of African Canadians; the International Decade for People of African Descent presents an opportunity to showcase achievements in this regard.

### Child Welfare

- 6) The ACLC calls for the establishment and sustained funding of an African Canadian Child Welfare Intervention Service through the Ministry of Children and Youth Services (MCYS) in the Province of Ontario. This is to address and reduce the high rate of Black children taken into care. Similar agencies and services should be established in each of Canada's provinces and territories in accordance with their provincial equivalents.
- 7) The ACLC recommends the allocation of money from Canada's Poverty Reduction Strategy to assist children's aid organizations in assisting parents and children living below the poverty line. Child welfare organizations must stop punishing poverty and begin working with parents and children to ease the burden that poverty inflicts.
- 8) The ACLC encourages the establishment of a Special Advisor for African Canadian Children within the ministry in each provincial and territorial government responsible for

Child Welfare in the provinces and territories with the highest concentration of African Canadians (in particular, Ontario, Quebec, Nova Scotia, and Alberta).

- 9) The ACLC adopts the Working Group's Recommendation that the Government of Canada take effective measures to address the root causes of over-representation of African-Canadian children in child care institutions. All efforts should be taken to keep the family together. Alternatives to taking the child away from the parents should be considered, including counselling, parenting programs, and kinship care. Training for child welfare staff should include strengthening cultural competency to better serve African Canadian communities.

### **Education**

- 10) The ACLC calls for national recognition of the over 300-year history of African Canadian presence in Canada and the recognition of the continuous contributions of African Canadians to Canada's national and cultural development. The ACLC further adopts the Working Group's Recommendation that the Government of Canada ensure that textbooks and other educational materials reflect this historical fact accurately as they relate to past tragedies and atrocities. In particular, there must be a more truthful education detailing slavery, segregation, and anti-Black racism.
- 11) The ACLC adopts the Working Group's Recommendation that the Government of Canada implement a nationwide African Canadian education strategy to address the inordinately low educational attainment, and the high dropout, suspension, and expulsion rates suffered by African Canadian children and youth.
- 12) The ACLC adopts the Working Group's Recommendation that the Provincial Ministries collect disaggregated data and ensure adequate remedies are available to African Canadian students impacted by discriminatory effects of disciplinary policies including racial profiling.
- 13) Encourage the Province of Ontario to repeal its *Safe Schools Legislation*
  - a. Special attention must be directed toward reviewing Section 23 schools for children suspended and expelled under the *Safe Schools Act* (2000). These schools, as well as other alternative education programs that disproportionately feature African Canadians, enforce the de facto segregation of Black students into inferior educational programs and must be eliminated. The disproportionate discipline inflicted upon African Canadians actively forces them out of learning environments and aggravates the threats of the "school-to-prison pipeline." This is a violation of African Canadian children's right to an education.

### Policing

- 14) The ACLC calls upon Canada to implement a National Strategy for the Use of Force by Canadian Police Officers. This National Strategy will be required to outline and implement a program in which officers must receive better training for (a) how to defuse potentially violent civilian interactions without the use of force, (b) when the use of force is justified, and (c) the proper use of the weapons available to them. For example, the officer who killed Abdirahman Abdi apparently did not receive training for the ‘assault gloves’ he used to beat Mr. Abdi to death.<sup>208</sup>
- 15) The ACLC calls upon Canada to implement a National Mental Health strategy to better train police officers to prevent the criminalization of mental health differences and cease treating individuals suffering from these differences as dangerous. We urge the Canadian government to make this a priority to rectify the situation in which many African Canadians suffering from mental health differences find themselves when engaging with mental health treatment programs only after their interactions with police. This strategy should include:
- a. Federal funding to the Provinces for mental health support teams in all police stations (successful pilot projects have been conducted in Ontario in the municipalities of Hamilton and Durham). In line with this recommendation is that of the Working Group, which recommends that the Government of Canada ensure that psychiatrists or psychologists accompany police officers in responding to mental health calls.
  - b. Increased culturally appropriate and relevant mental health awareness training on anti-Black racism to responding officers
  - c. Federal funding for culturally sensitive mental health treatment programs throughout the country
    - i. In the Province of Ontario, the ACLC calls for a sustained commitment to funding and staffing the SAPACCY. This intervention program should be used as a model for other Provinces and Territories.
  - d. The ACLC also adopts the Working Group’s Recommendation that the Government of Canada address the urgent mental health crisis in the African Canadian community through a thorough review of mental health legislation, operational priorities, and guidelines. It should establish a collaborative African Canadian Mental Health Working Group comprised of members of the African Canadian community, government and institutional partners in housing, child welfare, health, criminal justice and service providers.

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<sup>208</sup> Kristy Nease, “Deadly Weapon? Ottawa police assault gloves scrutinized after officer charged in death.” *Canadian Broadcasting Corporation*, March 14, 2017. <http://www.cbc.ca/news/canada/ottawa/ottawa-police-reinforced-gloves-abdirahman-abdi-1.4018998>

- 16) The ACLC calls on the Government of Canada to conduct a National Inquiry into the shooting deaths of African Canadian men with mental health differences by Canadian police. All of the individuals discussed in this submission suffered from some type of mental health difference. Across the country, a mental health difference affected how each individual was treated by the responding officers and ultimately cost them their lives.
- 17) The ACLC calls for the City of Toronto to order the complete deletion of the Historical Database containing the information obtained from Field Information Reports/Contact Cards. This information was largely obtained unethically and is stolen property. All similar databases across Canada's different Municipalities, Provinces, and Territories should be deleted as well.

### **Criminal Justice and Corrections**

- 18) In line with the Working Group's Recommendation, the ACLC recommends that the Government of Canada develop an African Canadian Justice Strategy to engage with the African Canadian community to address and correct the over-representation of African Canadians at all levels of the justice system and to ensure anti-discriminatory and culturally specific services for African Canadian offenders.
- 19) The ACLC calls on the Government of Canada to conduct a National Inquiry into the over-representation of African Canadians in the criminal justice system.
- 20) The ACLC adopts the Working Group's Recommendation that the practice of segregation and solitary confinement must be abolished and alternatives should be explored.
- 21) The ACLC adopts the Working Group's Recommendation that the practice of carding or street checks and all other forms of racial profiling be discontinued, that police guilty of racial profiling should be prosecuted and, in addition, that there be increased staffing and training on anti-Black racism. We also adopt the Working Group's Recommendation that there be a cultural change and greater respect for the African Canadian community.
- 22) The ACLC adopts the Working Group's Recommendation that the Government of Canada monitor, through periodic, external, independent audits, police services practices.
- 23) The ACLC adopts the Working Group's Recommendation that the Government of Canada ensure independent oversight bodies for police departments and prisons include people of African descent.



**Immigration**

- 24) The ACLC encourages the Government of Canada to introduce legislation prohibiting the detention of children (under 18).
- a. In the absence of official data detailing the racial backgrounds of minors in detention, we have heard from numerous members of the legal community that most of these children are racialized
- 25) The ACLC encourages the Government of Canada to introduce a maximum detention period and prohibit arbitrary long-term detentions. These detentions are an affront to human rights and, as demonstrated herein, have a highly disproportionate and discriminatory effect Black individuals.
- 26) The ACLC encourages the Government of Canada to introduce a legislative mechanism by which those without immigration status who do not present a danger to public safety can be released into the community until their matter has been resolved.
- 27) The ACLC encourages the Government of Canada and the CBSA to review the current policies that enforce the removal of foreign nationals with Canadian born children. These policies operatively produce either (1) Canadian children forced to grow up without their parents, or (2) the de facto deportation of Canadian children with their parents. Both are unacceptable.

**Poverty and Employment**

- 28) The ACLC encourages the Government of Canada to allocate funding from Canada's Poverty Reduction Strategy specifically for addressing and ameliorating the high rates of poverty, employment, and housing for African Canadians
- 29) The ACLC adopts the Working Group's Recommendation that the Government of Canada systematically and effectively address employment disparity for African Canadians through the enactment of employment equity legislation.
- 30) The ACLC urges the Government of Canada to develop and implement a National Employment Strategy for African Canadians to address the rampant unemployment, precarious employment, and underemployment of African Canadians. In particular, attention should be directed to Black youth in Toronto.
- a. Increase access to jobs and skills training programs for African Canadian employment;
  - b. Develop programs to provide employment skills training to African Canadian students enrolled in Applied courses;
  - c. Train at-risk African Canadian youth in schools and juvenile detention facilities.

## Works Cited

- 1) African Canadian Legal Clinic, “CBSA National Immigration Detention Framework Submission,” May 22, 2017. Document available upon request
- 2) Anderson, Andrea, “The Race Problem with Solitary Confinement in Canadian Jails” (February 3, 2017) <https://byblacks.com/news/item/1559-story-of-canadian-female-freedom-fighter-told-in-new-film>
- 3) Barrett, Paul. “In Canada, the killing of Black men by police never seems to be about race.” *Rabble*, February 24, 2017. <http://rabble.ca/blogs/bloggers/2017-02-24t000000/canada-killing-black-men-police-never-seems-be-about-race>
- 4) Blake, Jamilia J. et al., “Girlhood Interrupted: The Erasure of Black Girls’ Childhood.” *Georgetown Law Center on Poverty and Inequality* (Summer 2017) 1-19 <http://www.law.georgetown.edu/academics/centers-institutes/poverty-inequality/upload/girlhood-interrupted.pdf>
- 5) Block, Sheila; Galabuzi, Grace Edward; Weiss, Alexandra, “The Colour Coded Labour Market By the Numbers: A National Household Survey Analysis” (2014) *Wellesley Institute*, 1-14 <http://www.wellesleyinstitute.com/wp-content/uploads/2014/09/The-Colour-Coded-Labour-Market-By-The-Numbers.pdf>
- 6) Block, Sheila and Galabuzi, Grace-Edward. “Canada’s Colour Coded Labour Market: the gap for racialized workers.” *Wellesley Institute*, March 2011. 1-20. <http://www.wellesleyinstitute.com/wp-content/uploads/2011/03/Colour-Coded-Labour-MarketFINAL.pdf>
- 7) Brooker, Stephen et al., “Challenges to Providing Mental Health Care in Immigration Detention.” *Global Detention Project*, Working Paper 19. December 2016. 1-21 <https://www.globaldetentionproject.org/wp-content/uploads/2016/12/Brooker-et-al-GDP-paper-2016.pdf>
- 8) Canada Border Services Agency, “CBSA’s New National Immigration Detention Framework” January 2017. <http://www.cbsa-asfc.gc.ca/agency-agence/consult/consultations/nidf-cnmdi/menu-eng.html>
- 9) The Canadian Press, “Prisons can reduce use of segregation dramatically, and safely: Editorial” (March 15, 2017) <https://www.thestar.com/opinion/editorials/2017/03/15/prisons-can-reduce-use-of-segregation-dramatically-and-safely-editorial.html>
- 10) CBC News, “Alain Magloire's brother satisfied with report calling for better police training.” *Canadian Broadcasting Corporation*, March 8, 2016. <http://www.cbc.ca/news/canada/montreal/alain-magloire-coroner-report-brother-satisfied-mental-health-1.3482301>

- 11) Codjoe, Henry M. "Fighting a 'Public Enemy' of Black Academic Achievement—the persistence of racism and the schooling experiences of Black students in Canada" *Race Ethnicity and Education*, 4:4 (2001) 343-375
- 12) Committee on the Elimination of Racial Discrimination, "Consideration of reports submitted by States parties under article 9 of the convention, Canada." *CERD*. (March 9, 2012) p. 1-8
- 13) Colette, Maria Boston, "The Relationship Among Racial Identity, Sense of Belonging, and the Academic Motivation of African American High School Students." *Azusa Pacific University*. July 2015
- 14) Da Silva, Michelle, "Despite funding boost, advocates say Canada has a mental health crisis" (May 5, 2017) <https://nowtoronto.com/news/despite-funding-boost-advocates-say-canada-has-mental-health-crisis/>
- 15) Foster, Lorne; Jacobs, Les; and Siu, Bobby, "Race Data and Traffic Stops in Ottawa, 2013-2015: A Report on Ottawa and the Police Districts" *York University* (October 2016). [https://www.ottawapolice.ca/en/about-us/resources/.TSRDCP\\_York\\_Research\\_Report.pdf](https://www.ottawapolice.ca/en/about-us/resources/.TSRDCP_York_Research_Report.pdf)
- 16) Gilliam, Walter S. et al., "Do Early Educators' Implicit Biases Regarding Sex and Race Relate to Behavior Expectations and Recommendations of Preschool Expulsions and Suspensions?" *Yale University Child Center*, September 28, 2016. 1-17
- 17) Gillis, Wendy, "How many black men have been killed by Toronto police? We can't know." *The Toronto Star*, August 16, 2015. <https://www.thestar.com/news/crime/2015/08/16/how-many-black-men-have-been-killed-by-toronto-police-we-cant-know.html>
- 18) Gillis, Wendy, "Mother remembers Ian Pryce, shot by police in 2013 with a pellet gun in his hand." *The Toronto Star*, January 13, 2015. [https://www.thestar.com/news/crime/2015/01/03/mother\\_remembers\\_ian\\_pryce\\_shot\\_by\\_police\\_in\\_2013\\_with\\_a\\_pellet\\_gun\\_in\\_his\\_hand.html](https://www.thestar.com/news/crime/2015/01/03/mother_remembers_ian_pryce_shot_by_police_in_2013_with_a_pellet_gun_in_his_hand.html)
- 19) Gillis, Wendy, "No charges against Peel police in death of Jermaine Carby." *The Toronto Star*, July 21, 2015. <https://www.thestar.com/news/crime/2015/07/21/no-charges-against-peel-police-in-death-of-jermaine-carby.html>
- 20) Gillis, Wendy, "Police officer who shot Andrew Loku says he feared for his life." *The Toronto Star*, June 14, 2017. <https://www.thestar.com/news/gta/2017/06/14/inquest-to-hear-from-officer-who-shot-andrew-loku.html>
- 21) Gillis, Wendy and Hasham, Alyshah, "Jermaine Carby taken in under Mental Health Act a month before police shot him dead." *The Toronto Star*, July 31, 2015. <https://www.thestar.com/news/crime/2015/07/31/jermaine-carby-taken-in-under-mental-health-act-a-month-before-police-shot-him-dead.html>

- 22) Government of Canada, “Immigration and Refugee Protection Act (S.C. 2001, c. 27)” *Justice Laws Website*, June 16, 2017. <http://laws-lois.justice.gc.ca/eng/acts/i-2.5/section-36.html>
- 23) Government of Canada, “Immigration and Refugee Protection Act (S.C. 2001, c. 27)” *Justice Laws Website*, June 16, 2017. <http://laws.justice.gc.ca/eng/acts/I-2.5/section-64.html>
- 24) Government of Canada, “Poverty Reduction Strategy,” <https://www.canada.ca/en/employment-social-development/campaigns/poverty-reduction.html>
- 25) Grewal, San, “Embattled Peel Police Chief wants two more years on the job.” *The Toronto Star*, May 20, 2017. <https://www.thestar.com/news/gta/2017/05/20/embattled-peel-police-chief-wants-two-more-years-on-the-job.html>
- 26) Hudes ,Sammy, “Mississauga mom distraught after police handcuff her six-year-old daughter.” *The Toronto Star*, February 2, 2017. <https://www.theglobeandmail.com/news/national/ontario-correctional-facilities-record-rise-in-inmate-suicide-attempts/article35460149/>
- 27) Immigration and Refugee Board of Canada, “Detention Review Process.” August 14, 2015. <http://www.irb-cisr.gc.ca/Eng/BoaCom/references/procedures/Pages/ProcessRevMot.aspx>
- 28) James, Carl, “Students “at Risk”: Stereotypes and the Schooling of Black Boys” *York University*. *Urban Education* 47(2) (2012) 465-494
- 29) James, Carl and Turner, Tana, “Towards Race Equity in Education: The Schooling of Black Students in the Greater Toronto Area.” *York University*. April 2017, <http://edu.yorku.ca/files/2017/04/Towards-Race-Equity-in-Education-April-2017.pdf> (accessed May 1, 2017)
- 30) Johnston, David. “Speech from the Throne to Open the First Session of the Forty-second Parliament of Canada, “December 4, 2015. <https://www.canada.ca/en/privy-council/campaigns/speech-throne/making-real-change-happen.html>
- 31) Joseph, Justine, and Kuo, Ben, “Black Canadians’ Coping Responses to Racial Discrimination.” *University of Windsor*, *JOURNAL OF BLACK PSYCHOLOGY*, Vol. 35 No. 1, February 2009. 78-101
- 32) Kassam, Ashifa, “Ontario police face inquiry into beating death of mentally ill black man.” *The Guardian*, July 26, 2016. <https://www.theguardian.com/world/2016/jul/26/canada-police-beating-abdirahman-abdi-ontario>

- 33) Kennedy, Brendan, “Caged by Canada” *The Toronto Star*, March 17, 2017. <https://www.thestar.com/projects/short/2017/03/17/caged-by-canada.html>
- 34) Kennedy, Brendan, “Jailed seven years by Canada, Kashif Ali now walks free.” *The Toronto Star*. April 28, 2017. <https://www.thestar.com/news/canada/2017/04/28/jailed-seven-years-by-canada-kashif-ali-now-walks-free.html>
- 35) Khenti, Akwatu, “The Canadian War on Drugs: Structural Violence and unequal treatment of Black Canadians.” *International Journal of Drug Policy*, 25 [http://www.ijdp.org/article/S0955-3959\(13\)00230-2/pdf](http://www.ijdp.org/article/S0955-3959(13)00230-2/pdf) (2014) 41-49
- 36) King, Alison, “HALIFAX REGIONAL SCHOOL BOARD: Focus on Learning: Elementary Provincial Results for Math and Literacy.” *Halifax Regional School Board*, June 3, 2015. <http://www.hrsb.ca/sites/default/files/hrsb/2015-05-19.pdf>
- 37) Lalonde, Michelle, “Police shooting of Alain Magloire: What you need to know.” *Montreal Gazette*, January 12, 2015. <http://montrealgazette.com/news/local-news/timeline-on-police-shooting-of-alain-magloire>
- 38) Legal Aid Ontario, “A legal aid strategy for bail,” *LAO*, 2016. <http://www.legalaid.on.ca/en/publications/paper-legal-aid-strategy-for-bail-2016-11.asp>
- 39) Nestel, Sheryl, *Colour Coded Health Care: The Impact of Race and Racism on Canadians’ Health* (January 2012) <http://www.wellesleyinstitute.com/health/colour-coded-health-care-the-impact-of-race-and-racism-on-canadians-health/>
- 40) Nasser, Shanifa, “Federal Court hearing landmark challenge on indefinite immigration detention.” *The Canadian Broadcasting Corporation*. May 15, 2017. <http://www.cbc.ca/news/canada/toronto/immigration-detention-canada-challenge-1.4114908>
- 41) Nease, Kristy “Deadly Weapon? Ottawa police assault gloves scrutinized after officer charged in death.” *Canadian Broadcasting Corporation*, March 14, 2017. <http://www.cbc.ca/news/canada/ottawa/ottawa-police-reinforced-gloves-abdirahman-abdi-1.4018998>
- 42) Nogeura, Pedro A, ”Schools, Prisons, and Social Implications of Punishment: Rethinking Disciplinary Practices.” Ohio State University *Theory Into Practice* 42(4), Autumn 2003. 341-350
- 43) Office of the United Nations High Commissioner for Human Rights, “International Convention on the Elimination of All Forms of Racial Discrimination” enforced 1969, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx>
- 44) Ojo, Kike, “One Vision One Voice: Changing the Ontario Child Welfare System to Better Serve African Canadians- Practice Framework Part 1: Research Report.” *Ontario Association of Children’s Aid Societies*. September 2016

- 45) Ontario Association of Children's Aid Societies, "About Children's Aid Societies," *OACAS*, 2015. <http://www.oacas.org/childrens-aid-child-protection/about-childrens-aid-societies/>
- 46) Ontario Human Rights Commission, "Under Suspicion: Research and consultation report of racial profiling in Ontario." *OHRC*. April 2017. 56. [http://ohrc.on.ca/sites/default/files/Under%20suspicion\\_research%20and%20consultation%20report%20on%20racial%20profiling%20in%20Ontario\\_2017.pdf](http://ohrc.on.ca/sites/default/files/Under%20suspicion_research%20and%20consultation%20report%20on%20racial%20profiling%20in%20Ontario_2017.pdf)
- 47) Ontario Human Rights Commission, *Paying the Price: The Human Cost of Racial Profiling* (2003) cited in Akwatu Khenti, "The Canadian War on Drugs: Structural Violence and unequal treatment of Black Canadians." *International Journal of Drug Policy*, 25 (2014) [http://www.ijdp.org/article/S0955-3959\(13\)00230-2/pdf](http://www.ijdp.org/article/S0955-3959(13)00230-2/pdf)
- 48) Petteruti, Amanda, "Education Under Arrest: The Case Against Police in Schools." *Justice Policy Institute*, November 2011.1-39
- 49) Perkel, Colin, "Jamaican Alvin Brown finally deported but damages urged for his 5-year immigration detention." *CTV*. September 7, 2016. <http://toronto.ctvnews.ca/jamaican-man-held-in-immigration-custody-for-five-years-could-be-deported-next-week-1.3054537>
- 50) Powers, Lucas, "Solitary confinement reform in Canadian jails hindered by secretive system" (March 3, 2016) <http://www.cbc.ca/news/politics/solitary-confinement-canada-jails-1.3471209>
- 51) Prince, Michael J., "Prime Minister as Moral Crusader: Stephen Harper's Punitive Turn in Social Policy-Making." *Canadian Review of Social Policy*, vol 71 (Spring 2015), 53-69
- 52) Public Prosecution Services of Canada, "6.2 Mandatory Minimum Penalties for Particular Drug Offences under the *Controlled Drugs and Substances Act*." *PPSC*, June 29, 2016. <http://www.ppsc-sppc.gc.ca/eng/pub/fpsd-sfpg/fps-sfp/tpd/p6/ch02.html>
- 53) Public Safety Canada. "School Resource Officer Program, Synopsis." *Government of Canada*, August 1, 2013. <https://www.publicsafety.gc.ca/cnt/centrng-crm/plcng/cnmc-splcng/ndx/snpss-en.aspx?n=71>
- 54) *R. v. Hall*, 2013 ONSC 834 (CanLII), <<http://canlii.ca/t/fw1gs>>, retrieved on 2017-07-05 (cited in Legal Aid Ontario, "A legal aid strategy for bail," *LAO*, 2016. <http://www.legalaid.on.ca/en/publications/paper-legal-aid-strategy-for-bail-2016-11.asp>)
- 55) *R. v. Hamilton*, 2004 CanLII 5549 (ON CA), <<http://canlii.ca/t/1hmc9>>, retrieved on 2017-06-29

- 56) Rankin, Jim, “Toronto Marijuana Arrests reveal ‘startling’ racial divide.” *The Toronto Star*, July 6, 2017. <https://www.thestar.com/news/insight/2017/07/06/toronto-marijuana-arrests-reveal-startling-racial-divide.html>
- 57) Rankin, Jim et al, “Carding drops but proportion of blacks stopped by Toronto police rises.” *The Toronto Star*. July 26, 2014 [https://www.thestar.com/news/insight/2014/07/26/carding\\_drops\\_but\\_proportion\\_of\\_blacks\\_stopped\\_by\\_toronto\\_police\\_rises.html](https://www.thestar.com/news/insight/2014/07/26/carding_drops_but_proportion_of_blacks_stopped_by_toronto_police_rises.html)
- 58) Rankin, Jim and Rushowy Kristin, “High Suspension Rates for Black Students in TDSB Need to Change, Experts Say.” *The Toronto Star*. March 22, 2013. [https://www.thestar.com/yourtoronto/education/2013/03/22/high\\_suspension\\_rates\\_for\\_black\\_students\\_in\\_tdsb\\_need\\_to\\_change\\_experts\\_say.html](https://www.thestar.com/yourtoronto/education/2013/03/22/high_suspension_rates_for_black_students_in_tdsb_need_to_change_experts_say.html)
- 59) Rankin, Jim and Winsa, Patty, “Unequal Justice: Aboriginal and Black Inmates Disproportionately Fill Ontario Jails.” *Toronto Star*. March 1, 2013. [https://www.thestar.com/news/insight/2013/03/01/unequal\\_justice\\_aboriginal\\_and\\_black\\_inmates\\_disproportionately\\_fill\\_ontario\\_jails.html](https://www.thestar.com/news/insight/2013/03/01/unequal_justice_aboriginal_and_black_inmates_disproportionately_fill_ontario_jails.html)
- 60) Rankin, Jim and Winsa, Patty, “Known to Police: Toronto police stop and document black and brown people far more than whites.” *The Toronto Star*, March 9, 2012. [https://www.thestar.com/news/insight/2012/03/09/known\\_to\\_police\\_toronto\\_police\\_stop\\_and\\_document\\_black\\_and\\_brown\\_people\\_far\\_more\\_than\\_whites.html](https://www.thestar.com/news/insight/2012/03/09/known_to_police_toronto_police_stop_and_document_black_and_brown_people_far_more_than_whites.html)
- 61) Robin, Raizel, “The \$1-Billion Hellhole” (February 15, 2017) <http://torontolife.com/city/inside-toronto-south-detention-centre-torontos-1-billion-hellhole/>
- 62) Rowley, Stephanie J. et al.; “Perceived Racial Discrimination and Self-Esteem in African American Youth: Racial Socialization as a Protective Factor.” *Journal of Research on Adolescence*, 14(4) (2007) 669-682
- 63) Rush, Curtis, “Toronto Police Shooting of Michael Eligon: A timeline.” *The Toronto Star*, March 2, 2012. [https://www.thestar.com/news/crime/2012/03/02/toronto\\_police\\_shooting\\_of\\_michael\\_eligon\\_a\\_timeline.html](https://www.thestar.com/news/crime/2012/03/02/toronto_police_shooting_of_michael_eligon_a_timeline.html)
- 64) Sapers, Howard, “Annual Report of the Office of the Correctional Investigator 2012-2013,” [www.oci-bec.gc.ca](http://www.oci-bec.gc.ca). June 28, 2013. <http://www.oci-bec.gc.ca/cnt/rpt/annrpt/annrpt20122013-eng.aspx>
- 65) Stone, Laura, “Howard Sapers: the man tasked to solve Canada’s corrections problem” (November 25, 2016) <https://www.theglobeandmail.com/news/politics/howard-sapers-the-man-tasked-to-solve-canadas-corrections-problem/article33057109/>

- 66) Toronto District School Board (TDSB), “Census Portraits: Understanding our Students’ Backgrounds.” TDSB Ethno-Racial Series: Black Students Report. June 2015 [http://www.tdsb.on.ca/Portals/research/docs/reports/Portrait\\_Census2011-12\\_Black\\_FINAL\\_report.pdf](http://www.tdsb.on.ca/Portals/research/docs/reports/Portrait_Census2011-12_Black_FINAL_report.pdf)
- 67) Toronto District School Board (TDSB), “Structured Pathways: An exploration of programs of study, school-wide and in-school programs, as well as promotion and transference across secondary schools in the Toronto District Schools Board.” TDSB. December 2013 <http://www.tdsb.on.ca/Portals/Ward11/docs/StructuredPathways.pdf>
- 68) Toronto District School Board (TDSB), “The TDSB Grade 9 Cohort 2006-2011: Special Education Fact Sheet No. 4” TDSB. May 2013. <http://www.tdsb.on.ca/Portals/research/docs/reports/Gr9CohortFactSheet4SpecialEducation13May13.pdf>
- 69) United Nations Working Group of Experts on People of African Descent, “Statement to the media by the United Nations’ Working Group of Experts on People of African Descent, on the conclusion of its official visit to Canada, 17-21 October 2016.” United Nations Office of the High Commissioner, October 21, 2016. <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20732&LangID=E>
- 70) White, Patrick, “Use of solitary confinement for black inmates in federal prisons increasing” (May 28, 2015) <https://www.theglobeandmail.com/news/national/use-of-solitary-confinement-in-federal-prisons-has-increased-over-last-10-years/article24661862/>
- 71) Woodbury, Richard, “African-Nova Scotian students being suspended at disproportionately higher rates.” *CBC News*, December 12, 2016. <http://www.cbc.ca/news/canada/nova-scotia/african-nova-scotian-students-suspension-numbers-1.3885721>
- 72) Woodbury, Richard, “Halifax Regional School Board releases student suspension report.” *CBC News*, May 26, 2016. <http://www.cbc.ca/news/canada/nova-scotia/halifax-regional-school-board-student-suspension-report-1.3601404>
- 73) Yang, Jennifer, “Program for black youth in crisis at heart of bitter dispute” (May 4, 2017) <https://www.thestar.com/news/gta/2017/05/04/program-for-black-youth-in-crisis-at-heart-of-bitter-dispute.html>
- 74) Zinger, Ivan, “The Changing Face of Canada’s Prisons: Correctional Investigator Reports on Ethno-Cultural Diversity in Corrections,” [www.oci-bec.gc.ca](http://www.oci-bec.gc.ca). November 26, 2013. <http://www.oci-bec.gc.ca/cnt/comm/press/press20131126-eng.aspx>