

# PART I

## *Introduction: Race, Crime, and Justice in Canada*

- CHAPTER 1** The Great Debate: Race and Justice in Canada
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## CHAPTER 1

# The Great Debate: Race and Justice in Canada

### Introduction

On May 25, 2020, George Floyd, a Black American, was arrested under suspicion of passing a counterfeit \$20 bill in Minneapolis, Minnesota. During his arrest, Floyd was taken to the ground by Derek Chauvin, a White Minneapolis police officer, who subsequently knelt on Floyd's neck for over nine minutes, causing his death from asphyxiation (a lack of oxygen). The encounter between Floyd and Chauvin was captured by the cell phone cameras of several onlookers. Footage was circulated around the globe by major news networks and through social media channels. Chauvin was eventually charged with Floyd's murder and convicted in April 2021. Floyd's homicide led to widespread protests across the United States, Canada, England, and many other nations. Floyd's final words—"I can't breathe"—became the rallying cry of the emerging Black Lives Matter social movement. Ultimately, Floyd's murder led to various investigations into **racial prejudice** in American policing and calls to defund the police. The Floyd case also prompted many people to re-examine the roles that **race** and **racism** play in modern society (see Samuels & Olorunnipa, 2022). (Terms in bold text are defined in a glossary at the end of each chapter of this book.)

Allegations of illegitimate use of force by police against Black Americans are not new. Although the George Floyd murder is one of the most notorious cases, allegations of police racism and brutality have always been serious issues facing the law enforcement community in the United States. Other high-profile use-of-force incidents involving Black civilians—including the cases of Rodney King, Abner Louima, Amadou Diallo, Timothy Thomas, Arthur McDuffie, Freddie Gray, Eric Garner, Michael Brown, Tamir Rice, Philando Castile, Atatiana Jefferson, and Breonna Taylor—have increased tensions between the Black community and the police and solidified perceptions that the police are racially biased (Joseph et al., 2003; Walker, 2005; Walker et al., 2011). Furthermore, the negative impact of police violence on community cohesion can be profound. For example, over the past 75 years, specific incidents of police violence against Black civilians

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have sparked major urban riots in several American cities including Ferguson (Missouri), Miami (Florida), Cincinnati (Ohio), Los Angeles (California), and New York City (New York). Allegations of police brutality against people of African descent have also directly contributed to large-scale urban unrest in both France and England (Kawalerowicz & Biggs, 2015).

During our work as professors who study issues of race and justice in Canada, we have often had discussions with Canadian politicians, police leaders, justice officials, and everyday people who feel that racism is largely an American problem and that

the Canadian justice system treats all people fairly. In fact, several Canadian police leaders have expressed bewilderment or frustration that the George Floyd murder in the United States led to such passionate protests about police racism in Canada. Why would an American incident lead to allegations of police bias in Canada? The answer may be that the experiences of racialized people in Canada—especially people with Black and Indigenous backgrounds—are not much different from the experiences of their American counterparts. Perhaps the George Floyd case struck a nerve with many Canadians



Protesters gather during a Black Lives Matter rally in Toronto in 2020.

because they perceive that the issue of racial bias is just as relevant in Canada as it is in the United States.

A closer look at recent Canadian history reveals that, long before George Floyd, allegations of racial bias in Canadian policing were quite common. The following incidents are only a small sample of high-profile Canadian cases—spanning several decades—that produced allegations of police racism and illegitimate use of force:

- Between 1988 and 1992, the Greater Toronto Area (GTA) experienced a high number of police shootings of Black people, including Lester Donaldson (a 44-year-old man with schizophrenia who was shot and killed after allegedly threatening police officers with a paring knife); Michael Wade Lawson (an unarmed 17-year-old boy who was shot in the back and killed by police while fleeing arrest); Sophia Cook (a 23-year-old woman accidentally shot and paralyzed by police during a traffic stop); and Raymond Lawrence (a 22-year-old man shot and killed after allegedly threatening police with a knife following a pursuit). These cases resulted in numerous protests, the

1992 Yonge Street riot, criminal charges against police officers, the establishment of Ontario's Special Investigations Unit (SIU), and several government inquiries, including the Commission on Systemic Racism in the Ontario Criminal Justice System (see Paradkar, 2017; Vyhnač, 2017).

- On July 3, 1991, the Montreal police tactical unit shot and killed Marcellus François, an unarmed 24-year-old Black man, while he was sitting in his car waiting for the traffic light to change. In a case of mistaken identity, François was shot in the head with an M16 rifle. After an investigation, the head of the tactical unit was cleared of wrongdoing. Two other officers were given short suspensions for misconduct. In 1997, the City of Montreal paid the François family \$218,269 to settle their lawsuit (Feith, 2020).
- On September 5, 1995, Dudley George, a 38-year-old Ojibwa man, was shot and killed by Ontario Provincial Police (OPP) during a protest over land rights near Ipperwash Provincial Park. An OPP officer was later charged and convicted of criminal negligence causing death. George's death led to numerous community protests. Eventually, the Ontario government established the Ipperwash Inquiry to examine the cause of George's death and the state of relations between Indigenous communities in Ontario, the police, and the Ontario government (Edwards, 2009).
- During the 1990s and early 2000s, several Indigenous men—including Neil Stonechild, Lloyd Dustyhorn, Rodney Naistus, and Lawrence Wegner—were found frozen to death in rural areas of Saskatchewan. Public inquiries heard allegations that these deaths were likely the result of police “starlight tours”: incidents in which Indigenous people were apprehended by police, sometimes beaten, and then abandoned in remote areas outside Saskatoon without the clothing required to survive frigid winter temperatures. Police officers in Saskatchewan have never been charged for engaging in such practices (see Morin, 2021).
- On September 24, 2014, Jermaine Carby was shot and killed by Peel Regional Police after a routine traffic stop escalated into a violent confrontation. Although the police claimed that Carby was brandishing a knife against them at the time of the incident, several civilian witnesses reported that he was unarmed. The situation became more concerning when investigators from Ontario's SIU found no knife at the scene when they arrived. A knife was later returned to SIU investigators, several hours later, by a Peel police officer who claimed that they had bagged the knife as evidence and taken it from the site of the shooting—an action that violated basic investigative protocols and raised community suspicions that evidence in the case had been planted. Carby's death led to community protests, a coroner's inquest, and a lawsuit (see Gillis, 2015).

- On July 4, 2015, Andrew Loku, a 45-year-old Black man, was shot and killed by Toronto police after they confronted him in the hallway of his apartment building. Loku was holding a hammer and banging on walls as part of a noise-related conflict with neighbours. Loku's death resulted in numerous protests that clogged Toronto streets and ultimately resulted in a coroner's inquest into his death (see Warnica, 2015).
- On March 31, 2016, Bony Jean-Pierre, a 46-year-old Black man, was shot and killed by Montreal police during a case of mistaken identity in which police entered the wrong apartment during a drug raid. A Montreal police officer was eventually charged with manslaughter (Feith, 2020).
- On July 24, 2016, Abdirahman Abdi, a 37-year-old Black Somali-Canadian, died after a violent confrontation with Ottawa police. Abdi tried to run from police after they were called to a coffee shop to investigate allegations of sexual assault. Video footage shows that, during his arrest, Abdi was subjected to numerous blows to the head by responding officers. He was rendered unconscious and later died from his injuries in hospital. An Ottawa police officer was later charged with manslaughter and eventually acquitted. Abdi's death led to Black Lives Matter protests and allegations of racism against the Ottawa Police Service (see Helmer, 2019).
- During a two-month period in the spring of 2020, four people of Black and Indigenous descent died while Canadian police were on scene for "wellness checks" (Cecco, 2020). On April 6, D'Andre Campbell, a young Black man, was shot and killed by a Peel Regional police officer after his family called police seeking help to address Campbell's mental health. On May 27, Regis Korchinski-Paquet, a young woman of Indigenous, African, and Ukrainian heritage, died in the presence of six Toronto police officers when her family called for assistance to address Korchinski-Paquet's mental health. On June 4, Chantel Moore, a young Indigenous woman, was shot and killed by Edmondston, New Brunswick police officers during a "wellness check." On June 12, Rodney Levi, a member of the Metepenagiag Mi'kmaq Nation, was shot and killed by Royal Canadian Mounted Police officers in New Brunswick after a local pastor called police to express concern over Levi's state of mental health.
- On June 20, 2020, Peel police officers shot and killed 62-year-old Ejaz Choudry, a South Asian man, after being called to his home for a mental health check. Choudry's death led to community protests. After the officers were cleared of wrongdoing by the province's SIU, Choudry's family alleged racial bias and a botched investigation (see Miller, 2021).

Allegations of racism within Canada's criminal justice system extend far beyond cases of police use of force. Racial bias is also alleged to exist with respect to police surveillance practices (racial profiling); police charge, arrest, and diversion practices;

judicial bail decisions and the application of pre-trial release conditions; criminal trial conviction rates; sentencing decisions; and the treatment of Indigenous, Black, and other racialized people in Canadian prisons. The purpose of this book is to explore these controversial and divisive issues through an examination of criminological theory and empirical research. We set out to address four major research questions:

1. Are Indigenous, Black, and other racialized people overrepresented in the Canadian criminal justice system?
2. To what extent do racial differences in criminal behaviour explain the overrepresentation of racialized people in Canada's criminal justice system?
3. To what extent can the overrepresentation of racialized people be explained by **racial discrimination** within Canadian criminal justice institutions including the police, courts, and corrections?
4. What can be done to reduce racial disparities and ensure equity within Canada's criminal justice system?

However, before we begin to explore these important questions, we must first define the concept of race. This is the focus of the next section.

## What Is Race?

As the title suggests, this book is about race and its impact on issues related to crime and justice in Canada. Therefore, before we continue with our discussion, it is important to define the concept of race and how it is used in this book.

To begin with, race is a social construct. In other words, the concept of race was invented or created by humans as a result of their social interactions. Decades of scientific research has established that race has very little meaning at the genetic or biological level of analysis. Genetics vary little across racial groups, and there is often more genetic variation within racial categories than between them (Fuentes, 2012; Gannon, 2016; Worrall, 2017).

The idea of race, or the division of human beings into distinct racial categories, is also a relatively new social development. Modern conceptualizations of race materialized during the 17th and 18th centuries, which was the period of European exploration and expansion. During this time, Europeans encountered people who looked different and often lived very differently than the people who lived on the European continent. As a result, European scholars, using pseudo-scientific principles, began to classify people into different racial groups. This early classification system produced a clear racial hierarchy, with White or European people at the top of the hierarchy, Asians and South Asians in the middle, and Indigenous and African peoples at the bottom (see Harrison, 2010; Hirschman, 2004; Roberts, 2011). It is important to note that ideas of racial superiority were used to justify or condone European colonialism, the confiscation of Indigenous lands and resources, the

exploitation of non-European labour, and the establishment of the chattel slavery system. As noted by Montagu:

The idea of race [and of racial superiority] was developed as a direct response to the exploitation of other peoples, to provide both a pretext and a justification for the most unjustifiable conduct, the enslavement, murder, and degradation of millions of human beings. (1963, p. 111)

The impact of race and racism on the development of Canadian society is discussed further in Chapter 2.

As a social construct, race usually refers to visible characteristics including skin colour, hair texture, eye shape, and other physical attributes. Although race may not be real in the biological sense, it has a very real impact on social relations. For example, along with gender and age, race is one of the major personal characteristics people use to describe others (Hirschman, 2004). Think about your own life. How many times have you used race to describe a fellow student, co-worker, neighbour, friend, or family member?

### ***Racial Categories in Canada***

In 1996, Statistics Canada began to measure the racial background of Canadian residents through the long form of the Canadian census. Census respondents are now asked to self-identify their racial background. In this book, we will generally use the same major racial categories developed and employed by Statistics Canada. Our categories are as follows:

1. Indigenous (people of Indigenous, First Nations, Inuit, and Métis descent).
2. Black (people of African or African-Canadian descent).
3. Asian (people of Chinese, Japanese, and Korean descent).
4. South-East Asian (people of Vietnamese, Cambodian, Laotian, and Thai descent).
5. Filipino.
6. South Asian (people of Indian, Pakistani, Sri Lankan, etc. descent).
7. West Asian or Middle Eastern (people of Arab, Iranian, Syrian, Iraqi, Palestinian, etc. descent).
8. Hispanic or Latino (people of Mexican, Central American, or South American descent).
9. White (people of European or Caucasian descent).
10. Other racial background (including multiracial people).

Due to the limited release of disaggregated racial data, at various points in our analysis we collapse these racial categories into four major groups: Indigenous, Black, White, and other (non-White) racial minority.<sup>1</sup>

### ***Race Versus Ethnicity***

Although the concepts are related, race and **ethnicity** are not the same thing. As discussed above, race refers to a person's physical characteristics, including their skin colour. Ethnicity, on the other hand, refers to a wide range of social characteristics, including a person's country of origin, primary language, religion, and cultural traditions. While race is most often visible to an outside observer, a person's ethnicity is not. Furthermore, a single racial group often includes people who identify with a huge range of ethnic groups. For example, people who self-identify as Black may identify their ethnic identity as Canadian, American, Jamaican, Nigerian, Ghanaian, Brazilian, or British, among others. Similarly, people who self-identify as White might identify their ethnic group as Canadian, American, Italian, Swedish, British, German, French, South African, or Australian, among others. The point is that, in many ways, ethnicity is a much more complex concept than race. Although we recognize the social importance of ethnicity, and refer to it when possible, the focus of this book is on race and racial disparities, not ethnicity.

### ***The Continuing Significance of Race***

Race and racism are extremely complex, sensitive, and controversial topics in both public policy and social research. In many Western democracies, views on race and racial classification have become polarized. In some nations, including the United States, academic and civic leaders have proposed that governments stop collecting data on race. Their argument is largely based on recent findings from the fields of physical anthropology and human molecular biology that suggest that, at the genetic level, the concept of race is insignificant (see Cohen, 1998; Fitzgerald, 2014). Therefore, opponents of race-based data collection argue that if race is insignificant at the biological level, society should make all efforts to eliminate the concept of race from social discourse. They further maintain that the collection of race-based statistics reinforces the concept of race at the social level and perpetuates racial divisions and inequalities. In other words, research that incorporates the concept of race may reify race as a social concept and ultimately produce the consequences of thinking in racial terms (American Sociological Association, 2003).

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1 Prior to the 1996 census, Statistics Canada divided people into three major racial groups: Indigenous, visible minority, and non-visible minority. The visible minority category included all non-White, non-Indigenous racial groups including people of Black, Asian, South Asian, and West Asian descent. The use of the "visible minority" category was widely criticized for masking racial disparities and assuming that all racial minority groups have the same experiences and life outcomes.

Other scholars and policy-makers, however, totally disagree with calls to eliminate the collection and dissemination of race-based statistics. These scholars point to the fact that there is an enormous volume of social science research that effectively documents the significant impact that race has on major life outcomes, including employment, household income, housing, education, health care, and criminal justice decision-making (American Sociological Association, 2003; Driedger & Halli, 2000; Fleras & Elliott, 2002; Henry & Tator, 2005; Kalbach & Kalbach, 2000; Steinhorn & Diggs-Brown, 1999). These studies illustrate how racial hierarchies and inequalities are embedded in daily life. Although race may be relatively insignificant at the biological level, research suggests that it still has a huge impact within social systems. A growing research literature documents the continued importance of race and racism at the social level; therefore, a large and growing body of academics, community advocates, and policy-makers argue that the measurement of differential experiences, treatment, and outcomes across racial categories is necessary to track racial disparities, inform policy-making, and achieve social justice. This view is consistent with the idea that data documents racial disparity—it does not create it.

The American Sociological Association (ASA)—an association of over 13,000 American, Canadian, and international sociologists—finds greater merit in this second argument. In a strongly worded policy statement, the ASA concludes that

[s]ociological scholarship on “race” provides scientific evidence in the current scientific and civic debate over the social consequences of the existing categorizations and perceptions of race; allows scholars to document how race shapes social ranking, access to resources, and life experiences; and advances understanding of this important dimension of social life, which in turn advances social justice. Refusing to acknowledge the fact of racial classification, feelings, and actions, and refusing to measure their consequences will not eliminate racial inequalities. At best, it will preserve the status quo. The continuation of the collection and scholarly analysis of racial data serves both science and the public interest. (2003, p. 1)

Support for the official ASA position can be found through an examination of jurisdictions that have traditionally refused to employ racial categories for administrative purposes or social science research. Evidence strongly suggests that the refusal to collect race-based data does not in any way eliminate the use of racial categories in everyday life or prevent racism from emerging within economic or social institutions.

In France, for example, official information on race is almost never collected, but evidence of **systemic racism** is widespread (Galap, 1993; Raveau et al., 1976). Indeed, the 1988 Eurobarometer revealed that, out of 12 European nations, France scored second in both anti-immigrant attitudes and racial prejudice (see Quillian, 1995).

Brazil provides a similar example. In the 1970s, Brazil’s ruling party barred the collection of racial data in the national census, claiming that race was not a meaningful

category for social measurement. This ban, coupled with government censorship, greatly restricted public discussion of racial issues. However, it did not reduce racial inequality. When racial information was once again collected in the 1980 census, analysis revealed much higher levels of poverty, lower levels of educational achievement, and poorer health outcomes for Brazilian citizens of African descent (Telles, 2002).

Similarly, although Canada did not collect racial information on its population until 1996, when race-based data were ultimately released they revealed significant racial disparities with respect to major life outcomes including education, employment, income, and health (see Public Health Canada, 2018). These disparities are discussed at length in Chapter 2.

The failure to collect race-based data does not eliminate racial inequality, it just makes racial inequality invisible. Overall, research evidence provides strong support for the argument in favour of race-based data collection across all social institutions. In the next section, we provide support for this position by highlighting the profound racial disparities within the Canadian correctional system.

## Race and Canadian Corrections

Corrections in Canada consists of both federal and provincial systems (see discussion in Goff, 2020, pp. 321–322). The federal correctional system handles convicted offenders who have been given a sentence of two years or more. In addition, each province and territory in Canada is responsible for the operation of its own provincial correctional system. The provincial system handles both accused persons who have been remanded into custody before trial (i.e., held in pre-trial detention) and convicted persons who were given a sentence of less than two years. Provinces and territories are also responsible for the operation of their own youth justice systems, which are designed to serve persons between 12 and 18 years old. Both the provincial and federal systems include incarcerated offenders as well as those subject to community supervision (e.g., offenders on probation or parole).

The collection and dissemination of race-based data for both federal and provincial corrections systems has been inconsistent. Since 2000, the Correctional Service of Canada has periodically released data on the racial composition of the federal corrections population. However, although all provinces routinely release data on the number of Indigenous offenders under their supervision, only Ontario, Nova Scotia, Alberta, and British Columbia have released information about offenders from other racial groups. Nonetheless, the limited data that have been released consistently reveal that Indigenous and Black peoples in Canada are grossly overrepresented in the nation's federal and provincial correctional systems.

### *Measuring Racial Disparity*

In the section below, we use two measures to document racial disparity within Canada's federal and provincial corrections systems: odds ratios (which are discussed

further in Chapter 3) and correctional supervision rates. To begin with, simple odds ratios are calculated by dividing the percentage of the correctional population represented by a particular racial group by the percentage of the general population they represent. An odds ratio approaching 1.00 indicates that a racial group is neither overrepresented nor underrepresented in the corrections population. An odds ratio lower than 1.00 indicates that the group is underrepresented in corrections. An odds ratio greater than 1.00 indicates that the group is overrepresented. For example, an odds ratio of 2.00 indicates that a specified racial group is twice as prevalent in the correctional population as it is in the general population. By contrast, an odds ratio of 0.50 indicates that a group is 50 percent less represented in the correctional population than its proportion of the general population would predict.

There is no set standard for determining racial disproportionality (i.e., the over- or underrepresentation of a particular racial group with respect to a specific social outcome), and this is cause for concern. For example, in a recent study of traffic stops conducted by the Ottawa police, Foster and his colleagues used the “20 percent rule” (or an odds ratio of 1.20 or higher) to determine whether a group was significantly overrepresented with respect to involuntary police contact (2016). For the purposes of this chapter, we use a higher threshold of 50 percent. In other words, for the purposes of the present analysis, an odds ratio of 1.50 or higher will be used to signify that racial disproportionality is noteworthy within the correctional population. At times, we will also discuss the notion of “gross” racial disparity. For the purposes of this chapter, a gross racial disparity exists when the level of overrepresentation is 100 percent or greater (as indicated by an odds ratio of 2.00 or higher). In these cases, a particular racial group would be two times more prevalent in the correctional population than their prevalence in the general Canadian population would predict.

The second measure of racial disparity we used is the correctional supervision rate. Correctional supervision rates (per 100,000) are calculated by dividing the total correctional population for a specific racial group by their general population estimate, and multiplying that figure by 100,000. The rate indicates the number of people, per 100,000 population, who were under correctional supervision during a specific period. Correctional supervision rates allow us to directly compare the experiences of different racial groups of varying size. For example, if Group A has a supervision rate of 100 per 100,000, and Group B has a supervision rate of 200 per 100,000, we can accurately state that the members of Group B are twice as likely to come under corrections supervision than the members of Group A.

## Race and Federal Corrections

Canada’s correctional system represents the end of the criminal justice funnel. The people who end up in prison or under community supervision reflect decisions made at earlier stages of the criminal justice process, including decisions to engage in criminal behaviour; police surveillance and crime detection strategies; police

charge practices; decisions made by accused persons to either plead guilty or stand trial; criminal trial decisions regarding guilt or innocence (conviction rates); and, ultimately, sentencing decisions. As a result, corrections statistics provide the ideal platform to help us explore the impact of the justice system on people from different racial backgrounds.

Table 1.1 provides a racial breakdown of Canada's federal corrections population for 2020–21. These numbers include both incarcerated individuals and those under community supervision. The data indicate that both Black and Indigenous peoples are significantly overrepresented among those under federal correctional supervision. For example, although Indigenous peoples represent only 4.9 percent of Canada's total population, they represent 27.0 percent of those in the federal corrections system.<sup>2</sup> The odds ratio indicates that Indigenous peoples are, in fact, 5.5 times more likely to be involved in federal corrections than their prevalence in the general population would predict. Furthermore, the federal corrections supervision rate for Indigenous people (321.4 per 100,000) is 7.3 times greater than the rate for White people (44.2 per 100,000) and 5.5 times greater than the national average (58.1 per 100,000).

Similarly, although Black peoples represent only 4.1 percent of the general Canadian population, they constitute 8.0 percent of the population under federal corrections supervision. In other words, Black people are almost twice as likely to be involved in the federal corrections system as their prevalence in the general population would predict (odds ratio = 1.95). The Black federal corrections supervision rate (110.9 per 100,000) is 2.5 times greater than the White rate (44.2 per 100,000) and 1.9 times greater than the national average (58.1 per 100,000).

Interestingly, all other racial groups are significantly underrepresented in federal correctional statistics. For example, although White people represent 69.1 percent of the general population, they make up only 52.4 percent of the population under federal corrections supervision. An odds ratio of 0.76 indicates that White people are 24 percent less likely to appear under federal corrections supervision than their prevalence in the general population would predict. Other racial minority groups are even less likely to fall under federal corrections supervision. People of South Asian descent have the lowest rate of federal correctional representation (5.72 per 100,000), followed by Asians (21.9 per 100,000), people of Arab or West Asian descent (33.9 per 100,000), Latino people (38.3 per 100,000), White people (44.2 per 100,000), Black people (110.9 per 100,000), and Indigenous people (321.4 per 100,000). The Indigenous rate of federal corrections supervision is therefore 56 times greater than the South Asian rate (321.4 versus 5.72 per 100,000).

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2 The representation of Indigenous people under federal correctional supervision is greatest in Canada's Pacific region (58.4 percent of all offenders), followed by the Prairie region (54.3 percent), the Atlantic region (20.3 percent), the Ontario region (16.5 percent), and the Quebec region (14.5 percent).

**TABLE 1.1 Federal Correctional Supervision Rates (per 100,000), by Racial Group, 2020–21**

Racial Group	General Population Count	Percent of General Population	Federal Correctional Population Count	Percent of Correctional Population	Odds Ratio	Federal Correctional Supervision Rate**
White	25,545,530	69.1	11,280	52.4	0.76	44.16
Black	1,547,870	4.1	1,717	8.0	1.95	110.92
Indigenous	1,807,250	4.9	5,809	27.0	5.51	321.43
Asian*	3,380,495	9.1	739	3.4	0.37	21.86
South Asian	2,571,400	6.9	147	0.7	0.10	5.72
Arab/West Asian	1,054,510	2.9	357	1.6	0.55	33.85
Latino	580,235	1.6	222	1.0	0.63	38.26
Unknown	504,690	1.4	1,241	5.8	—	—
<b>TOTAL</b>	<b>36,991,980</b>	<b>100.0</b>	<b>21,512</b>	<b>100.0</b>	<b>1.00</b>	<b>58.15</b>

\* The Asian category includes people who self-identified as Chinese, Korean, Filipino, South-East Asian, or Japanese.

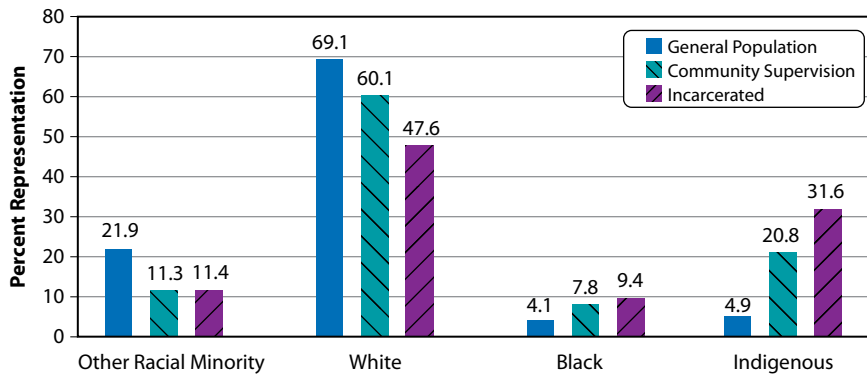
\*\* Rate refers to rate per 100,000 population.

The data used in Table 1.1 were compiled from the following sources: Public Safety Canada. (2023). *2021 corrections and conditional release statistical overview*. Government of Canada. <https://www.publicsafety.gc.ca/cnt/rsrctns/pblctns/ccrs-2021/index-en.aspx#c13-fn1>; and Statistics Canada. (2023). Census profile, 2021 census of population. <https://www12.statcan.gc.ca/census-recensement/2021/dp-pd/prof/index.cfm?Lang=E>.

Data presented in Figure 1.1 reveal that Indigenous and Black peoples are significantly overrepresented among both the federally incarcerated population and among those under federal community supervision. However, the overrepresentation of Black and Indigenous peoples is particularly evident among those serving time in federal prisons. For example, although they represent only 4.9 percent of the Canadian population, Indigenous people represent 20.8 percent of those under federal community supervision and 31.6 percent of those in federal custody. In other words, compared with their prevalence in the general population, Indigenous people are 4.2 times more likely to be under federal community supervision and 6.5 times more likely to be serving time in a federal penitentiary. Similarly, although Black peoples represent only 4.1 percent of Canada's general population, they represent 7.8 percent of the population under federal community supervision and 9.4 percent of those serving time in federal prisons. In other words, compared with their prevalence in the general Canadian population, Black people are 1.9 times more likely to be under federal community supervision and 2.3 times more likely to be serving time in a federal penitentiary. Combined, Indigenous and Black peoples represent only 9.0 percent of the Canadian population but together account for 41 percent of those held in Canada's federal prisons.

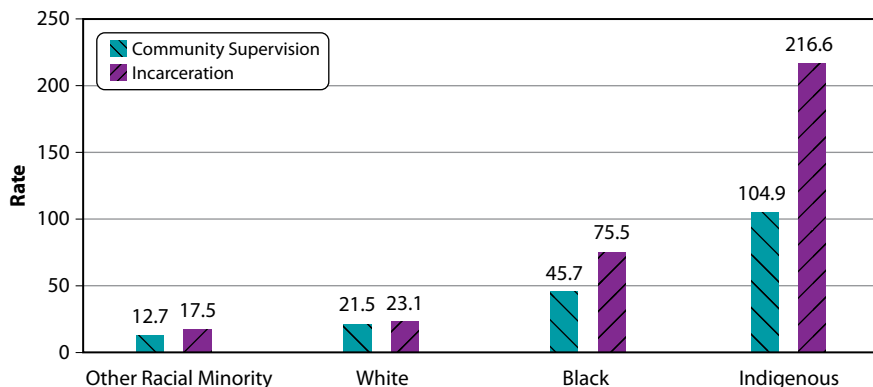
Additional analysis (see Figure 1.2) reveals that Canada's federal incarceration rate for Indigenous people (216.6 per 100,000) is 2.9 times greater than the rate for Black people (75.5 per 100,000), 9.4 times greater than the rate for White people (23.1 per 100,000), and 12.4 times greater than the rate for other racial minorities (17.5 per 100,000). The rate of federal incarceration for Black people is 3.3 times greater than the rate for White people and 4.3 times greater than the rate for other racial minorities.

**FIGURE 1.1** Percent Representation in the General Canadian Population and Federal Corrections, by Type of Supervision and Race, 2020–21



The data used in Figure 1.1 were compiled from the following sources: Department of Justice. (2023). *State of the criminal justice system dashboard*. Government of Canada. <https://justice.canada.ca/socjs-esjp/en>; and Statistics Canada. (2023). *Census profile, 2021 census of population*. <https://www12.statcan.gc.ca/census-recensement/2021/dp-pd/prof/index.cfm?Lang=E>.

**FIGURE 1.2** Federal Corrections Community Supervision and Incarceration Rates (per 100,000), by Race, 2020–21



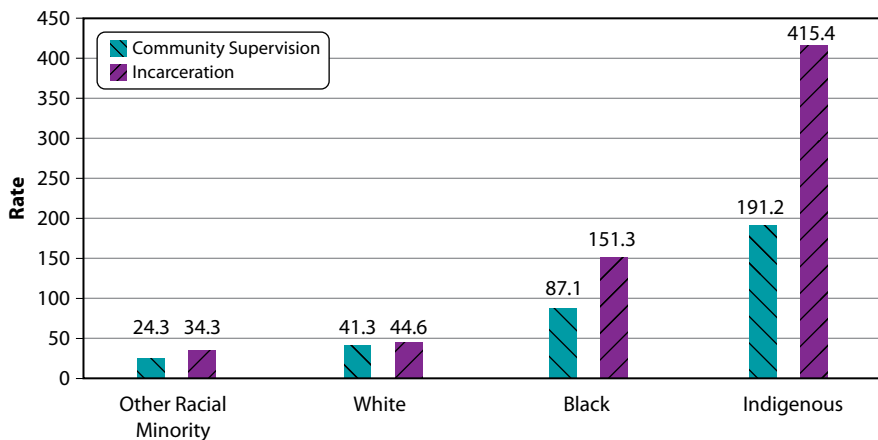
The data used in Figure 1.2 were compiled from the following sources: Department of Justice. (2023). *State of the criminal justice system dashboard*. Government of Canada. <https://justice.canada.ca/socjs-esjp/en>; and Statistics Canada. (2023). *Census profile, 2021 census of population*. <https://www12.statcan.gc.ca/census-recensement/2021/dp-pd/prof/index.cfm?Lang=E>.

### ***Race, Gender, and Federal Corrections***

Corrections data reveal that both Indigenous and Black males are grossly overrepresented in federal prisons. All other racial groups are underrepresented. For example, although Indigenous males represent only 4.8 percent of Canada’s male population, they represent 30.9 percent of those held in male penitentiaries. In other words, Indigenous males are 6.4 times more likely to be present in the male federal correctional population than their prevalence in the general population would predict. Similarly, although Black males represent only 4.1 percent of Canada’s male population, they represent 9.7 percent of those incarcerated in federal prisons. In other words, Black males are 2.4 times more likely to be held in a federal prison than their prevalence in the general population would predict.

Figure 1.3 reveals that, in 2020–21, the federal incarceration rate for Indigenous males (415.4 per 100,000) was 2.7 times greater than the rate for Black males (151.3 per 100,000), 9.3 times greater than the rate for White males (44.6 per 100,000), and 12.1 times greater than the rate for males from other racial minority groups (34.3 per 100,000). The federal incarceration rate for Black males is 3.4 times greater than the rate for White males and 4.4 times greater than the rate for males from other racial minority groups.

**FIGURE 1.3** Federal Corrections Community Supervision and Incarceration Rates (per 100,000), Male Population, by Race, 2020–21

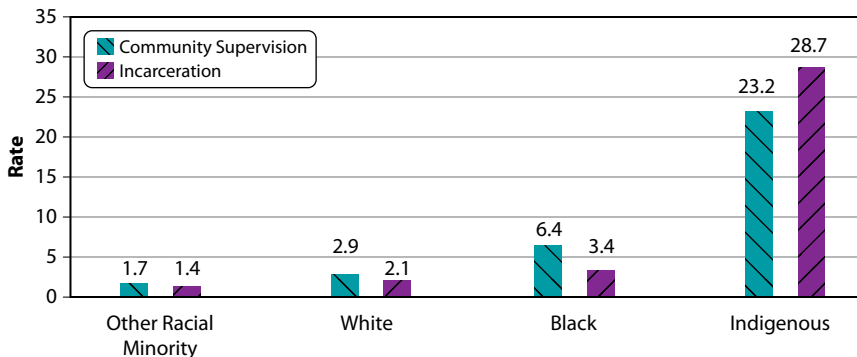


The data used in Figure 1.3 were compiled from the following sources: Department of Justice. (2023). *State of the criminal justice system dashboard*. Government of Canada. <https://justice.canada.ca/socjs-esjp/en>; and Statistics Canada. (2023). *Census profile, 2021 census of population*. <https://www12.statcan.gc.ca/census-recensement/2021/dp-pd/prof/index.cfm?Lang=E>.

The data look somewhat different for the female population under federal corrections supervision (see Figure 1.4). To begin with, the overrepresentation of

Indigenous women in the federal correctional population is even greater than the overrepresentation of Indigenous men. For example, although Indigenous women represent only 4.9 percent of Canada's female population, they represent 43.2 percent of female inmates held in Canada's federal prison system. In other words, Indigenous women are 8.8 times more likely to appear in a federal prison than their prevalence in the general population would predict. Furthermore, although Black males are grossly overrepresented within the federal prison population, Black females are not. Black women represent 4.2 percent of Canada's female population and only 4.4 percent of women held in federal penitentiaries (odds ratio = 1.04). In other words, the representation of Black women in Canada's federal prison system is approximately equal to their prevalence in the general population. Importantly, both White women and women from other racial minority groups are significantly underrepresented in Canada's federal corrections system. Overall, the federal incarceration rate for Indigenous females (28.7 per 100,000) is 8.4 times greater than the rate for Black females (3.4 per 100,000), 13.4 times greater than the rate for White females (2.1 per 100,000), and 20.5 times greater than the rate for females from other racial minority groups (1.4 per 100,000).

**FIGURE 1.4** Federal Corrections Community Supervision and Incarceration Rates (per 100,000), Female Population, by Race, 2020–21



The data used in Figure 1.4 were compiled from the following sources: Department of Justice. (2023). *State of the criminal justice system dashboard*. Government of Canada. <https://justice.canada.ca/socjs-esjp/en>; and Statistics Canada. (2023). *Census profile, 2021 census of population*. <https://www12.statcan.gc.ca/census-recensement/2021/dp-pd/prof/index.cfm?Lang=E>.

### ***Race and Prison Security Level***

Corrections data indicate that the overrepresentation of both Indigenous and Black people in Canada's federal correctional population increases as the prison security level increases (see Table 1.2). For example, between April 2018 and December

2021, Indigenous people represented 18.0 percent of offenders initially admitted to minimum security facilities, 32.6 percent of offenders admitted to medium security facilities, and 34.8 percent of those admitted to maximum security facilities. Similarly, Black people represented 6.4 percent of offenders initially admitted to minimum security facilities, 8.4 percent of those admitted to medium security facilities, and 13.8 percent of those admitted to maximum security facilities.

**TABLE 1.2 Admissions to Federal Correctional Facilities, by Initial Security Classification, by Racial Group, April 2018 to December 2021**

Self-Reported Race	Admissions to Minimum Security Facilities			Admissions to Medium Security Facilities			Admissions to Maximum Security Facilities		
	Number	Percent	Rate*	Number	Percent	Rate*	Number	Percent	Rate*
White	2,459	60.0	9.6	3,962	47.6	15.5	410	33.4	1.6
Black	261	6.4	16.9	703	8.4	45.4	170	13.8	11.0
Indigenous	737	18.0	40.8	2,716	32.6	150.3	427	34.8	23.6
Other	637	15.5	7.9	944	11.3	11.7	221	18.0	2.7
<b>TOTAL</b>	<b>4,094</b>	<b>100.0</b>	<b>11.1</b>	<b>8,325</b>	<b>100.0</b>	<b>22.5</b>	<b>1,228</b>	<b>100.0</b>	<b>3.3</b>

\* Rate refers to rate per 100,000 population.

The data used in Table 1.2 were compiled from the following sources: Public Safety Canada. (2023). *2021 corrections and conditional release statistical overview*. Government of Canada. <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/ccrso-2021/index-en.aspx#c13-fn1>; and Statistics Canada. (2023). *Census profile, 2021 census of population*. <https://www12.statcan.gc.ca/census-recensement/2021/dp-pd/prof/index.cfm?Lang=E>.

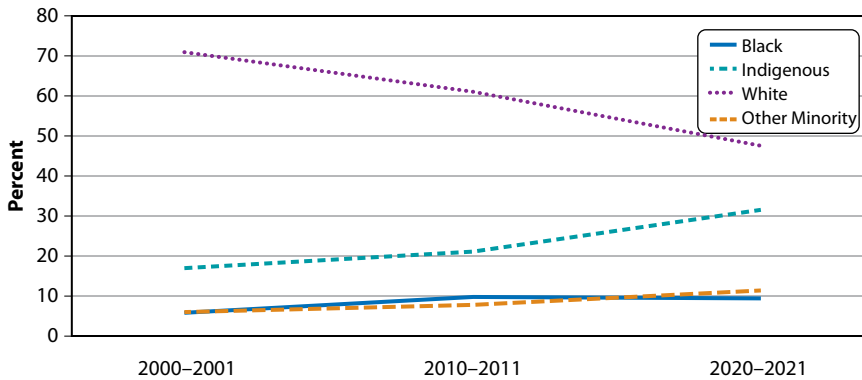
Overall, the admissions rate to maximum security prisons for Indigenous people (23.6 per 100,000) is 2.1 times greater than the rate for Black people (11.0 per 100,000), 14.8 times greater than the rate for White people (1.6 per 100,000), and 8.7 times greater than the rate for other racial minority groups. The admissions rate to maximum security prisons for Black people is 6.9 times greater than the rate for White people and 4.1 times greater than the rate for other racial minorities.

### ***Race and Federal Correctional Trends***

Correctional data presented in Figure 1.5 indicate that, over the past 20 years, Canada's federal prison population has become more racially diverse and racial disparities within the federal correctional system have become more pronounced. Indeed, the percentage of federal inmates who identify as White has dropped significantly, from 71.0 percent in 2000–01 to only 47.6 percent in 2020–21. By contrast, the proportion of federal inmates who identify as Indigenous rose dramatically, from

only 17.1 percent in 2000–01 to 31.6 percent in 2020–21. Likewise, the proportion of federal inmates who identify as Black rose from only 5.9 percent in 2000–01 to 9.9 percent in 2011–12, then dropped slightly to 9.4 percent in 2020–21. Finally, the proportion of the federal prison population that identified as another racial minority rose from only 6.0 percent in 2000–01 to 11.4 percent in 2020–21.

**FIGURE 1.5** Percent of Federal Prison Population, by Race, 2000–01 to 2020–21



The data used in Figure 1.5 were compiled from the following sources: Sapers, H. (2013). *Annual report of the Office of the Correctional Investigator 2012–2013*. Government of Canada. <https://oci-bec.gc.ca/sites/default/files/2023-06/annrpt20122013-eng.pdf>; and Department of Justice. (2023). *State of the criminal justice system dashboard*. Government of Canada. <https://justice.canada.ca/socjs-esjp/en>.

## Race and Provincial Corrections

As discussed above, all provinces and territories currently provide information on Indigenous offenders under provincial corrections supervision. However, to date, only Ontario, Alberta, and British Columbia have released information on offenders from other racial groups. Thus, in this section, we will first examine the national-level representation of Indigenous peoples in provincial corrections, then examine Black offenders in Ontario, Nova Scotia, Alberta, and British Columbia.

### Indigenous Overrepresentation

Table 1.3 reveals that the overrepresentation of Indigenous peoples in the provincial correctional system is even greater than their overrepresentation in the federal system. In 2022–23, Indigenous people represented 30.1 percent of those under provincial correctional supervision in Canada, compared to 27.0 percent of those under federal supervision. In other words, Indigenous people are 6.1 times more likely to appear in provincial corrections than their prevalence in the general population (4.9 percent) would predict. Overall, the provincial corrections supervision rate for Indigenous people (4,242.0 per 100,000) is 8.3 times greater than the rate for non-Indigenous people (505.1 per 100,000).

**TABLE 1.3 Admissions to Provincial Corrections, by Type of Supervision and Indigenous Identity, 2021–22**

Identity	Sentenced to Custody			Remand Custody (Pre-Trial Detention)			Community Supervision			Total Provincial Admissions		
	Number	Percent	Rate*	Number	Percent	Rate*	Number	Percent	Rate*	Number	Percent	Rate*
Indigenous	12,717	33.7	703.7	29,835	32.3	1,650.9	30,031	28.5	1,661.7	76,664	30.1	4,242.0
Other	24,994	66.3	71.0	62,467	67.7	177.5	75,122	71.5	213.5	177,727	69.9	505.1
<b>TOTAL</b>	<b>37,711</b>	<b>100.0</b>	<b>107.2</b>	<b>92,302</b>	<b>100.0</b>	<b>249.5</b>	<b>105,153</b>	<b>100.0</b>	<b>284.3</b>	<b>254,391</b>	<b>100.0</b>	<b>687.7</b>

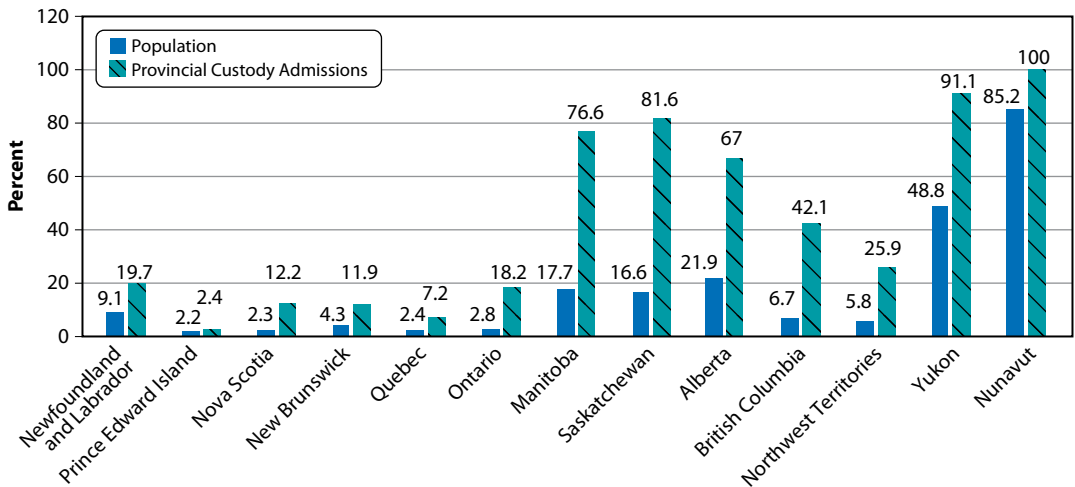
\* Rate refers to rate per 100,000 population.

The data used in Table 1.3 were compiled from the following sources: Department of Justice. (2023). *State of the criminal justice system dashboard*. Government of Canada. <https://justice.canada.ca/socjs-esjp/en>; and Statistics Canada. (2023). *Census profile, 2021 census of population*. <https://www12.statcan.gc.ca/census-recensement/2021/dp-pd/prof/index.cfm?Lang=E>.

Further analysis reveals that the representation of Indigenous peoples is greatest among those sentenced to provincial custody (33.7 percent), followed by those held in pre-trial detention (32.3 percent), followed by those under community supervision (28.5 percent). The rate of Indigenous people sentenced to provincial custody (703.7 per 100,000) is 9.9 times greater than the rate for non-Indigenous people. The rate for Indigenous people remanded to custody (1,650.9 per 100,000) is 9.3 times greater than the rate for non-Indigenous people (177.5 per 100,000). Finally, the community supervision rate for Indigenous people (1,661.7 per 100,000) is 7.8 times greater than the rate for non-Indigenous people.

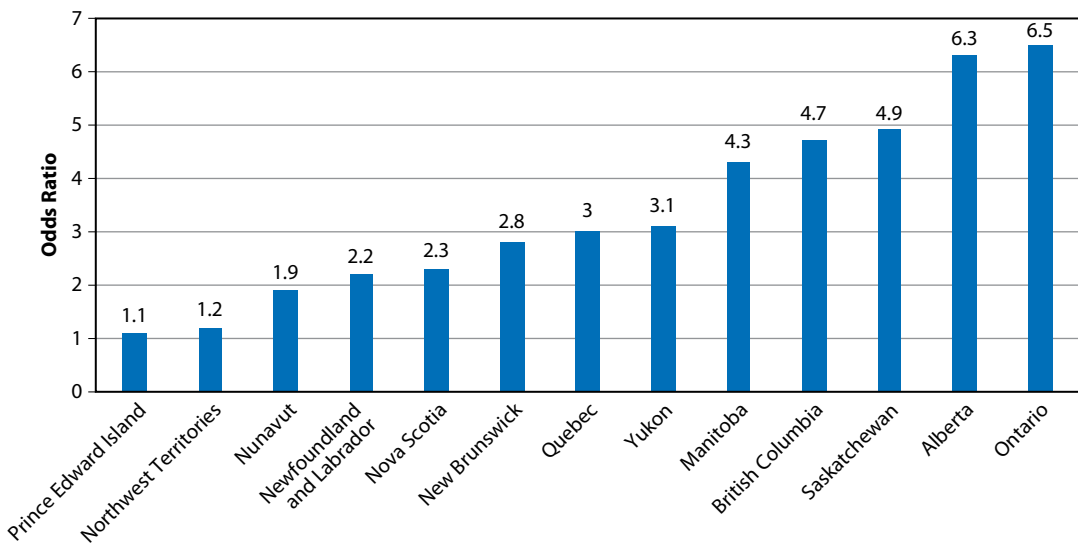
Figure 1.6 reveals that the representation of Indigenous peoples among those admitted to provincial prisons varies dramatically by region. For example, in 2022–23, Indigenous people represented 100.0 percent of the offenders admitted to provincial correctional facilities in Nunavut, compared with 91.1 percent of those admitted in the Northwest Territories, 81.6 percent of those admitted in Saskatchewan, 76.6 percent of those admitted in Manitoba, 67.0 percent of those admitted in Yukon, 42.1 percent of those admitted in Alberta, and 25.9 percent of those admitted in British Columbia. By contrast, Indigenous people represent only 19.7 percent of those admitted to provincial prisons in Newfoundland and Labrador, 18.2 percent of those admitted in Ontario, 12.2 percent of those admitted in Nova Scotia, 11.9 percent of those admitted in New Brunswick, 7.2 percent of those admitted in Quebec, and 2.4 percent of those admitted in Prince Edward Island.

**FIGURE 1.6** Indigenous Peoples as Percent of the Provincial Population Versus Percent Admissions to Provincial Correctional Facilities, 2022–23



The data used in Figure 1.6 were compiled from the following sources: Department of Justice. (2023). *State of the criminal justice system dashboard*. Government of Canada. <https://justice.canada.ca/socjs-esjp/en>; and Statistics Canada. (2023). *Census profile, 2021 census of population*. <https://www12.statcan.gc.ca/census-recensement/2021/dp-pd/prof/index.cfm?Lang=E>.

However, controlling for Indigenous representation in the general population reveals that the overrepresentation of Indigenous peoples in provincial correctional facilities is greatest in Ontario (see Figure 1.7). For example, although Indigenous people represent only 2.8 percent of Ontario's population, they represent 18.2 percent of those admitted to provincial prisons in Ontario (odds ratio = 6.5). In other words, Indigenous people in Ontario are 6.5 times more likely to appear in an Ontario provincial prison than their prevalence in the general Ontario population would predict. The overrepresentation of Indigenous peoples in provincial prisons is also high in Alberta (odds ratio = 6.3), Saskatchewan (odds ratio = 4.9), British Columbia (odds ratio = 4.7), Manitoba (odds ratio = 4.3), Yukon (odds ratio = 3.1), Quebec (odds ratio = 3.0), New Brunswick (odds ratio = 2.8), Nova Scotia (odds ratio = 2.3), Newfoundland and Labrador (odds ratio = 2.2), and the Northwest Territories (odds ratio = 1.9). Prince Edward Island (odds ratio = 1.1) and Nunavut (odds ratio = 1.2) are the only two regions of Canada where the representation of Indigenous people in provincial prisons approximates their representation in the general population.

**FIGURE 1.7 Indigenous Overrepresentation (Odds Ratios) in Admissions to Provincial Correctional Facilities, by Province, 2022–23**

The data used in Figure 1.7 were compiled from the following sources: Department of Justice. (2023). *State of the criminal justice system dashboard*. Government of Canada. <https://justice.canada.ca/socjs-esjp/en>; and Statistics Canada. (2023). *Census profile, 2021 census of population*. <https://www12.statcan.gc.ca/census-recensement/2021/dp-pd/prof/index.cfm?Lang=E>.

### **Black Overrepresentation**

The representation of other racial groups in the nation's provincial correctional systems is impossible to estimate because only 4 of Canada's 13 provinces and territories have released this information. The most detailed racial information on provincial corrections has been released by Ontario—home to half of Canada's 1.5 million Black peoples. Table 1.4 reveals that Black peoples in Ontario are grossly overrepresented in the province's correctional system. In 2022–23, Black people represented only 5.4 percent of Ontario's general population but they represented 11.3 percent of those under provincial corrections supervision. In other words, Black people were 2.1 times more likely to be under provincial corrections supervision than their prevalence in Ontario's general population would predict. The data also reveal that, as we saw in the federal corrections system, all other racial minorities are underrepresented in Ontario's corrections system. Furthermore, the provincial corrections rate for Black people in Ontario (1,331.3 per 100,000) is 13 times greater than the rate for Asian people (102.5 per 100,000), 6.5 times greater than the rate for South Asian people, 2.9 times greater than the rate for Arab and West Asian people, 2.7 times greater than the rate for Latinos (501.2 per 100,000), and 2.1 times

greater than the provincial average (642.0 per 100,000). Unfortunately, the available data combines the numbers for White and Indigenous peoples into a “non-visible minority” category; thus, it is impossible to calculate the overall rates of supervision for White or Indigenous people.

**TABLE 1.4 Ontario Provincial Corrections Supervision Rates (per 100,000), by Racial Group, 2022–23**

Racial Group	General Population Count	Percent of General Population	Provincial Corrections Population Count	Percent of Correctional Population	Odds Ratio	Provincial Corrections Supervision Rate**
White/Indigenous	9,406,587	66.2	57,217	62.6	0.94	608.3
Black	768,740	5.4	10,234	11.3	2.09	1,331.3
Asian*	1,482,585	10.4	1,519	1.7	0.16	102.5
South Asian	1,515,295	10.7	3,095	3.4	0.32	204.3
Arab/West Asian	496,400	3.5	2,266	2.5	0.71	456.5
Latino	249,190	1.7	1,249	1.4	0.82	501.21
Unknown	305,145	2.1	15,744	17.1	—	—
<b>TOTAL</b>	<b>14,223,942</b>	<b>100.0</b>	<b>91,324</b>	<b>100.0</b>	<b>1.00</b>	<b>642.0</b>

\* The Asian category includes people who self-identified as Chinese, Korean, Filipino, South-East Asian, or Japanese.

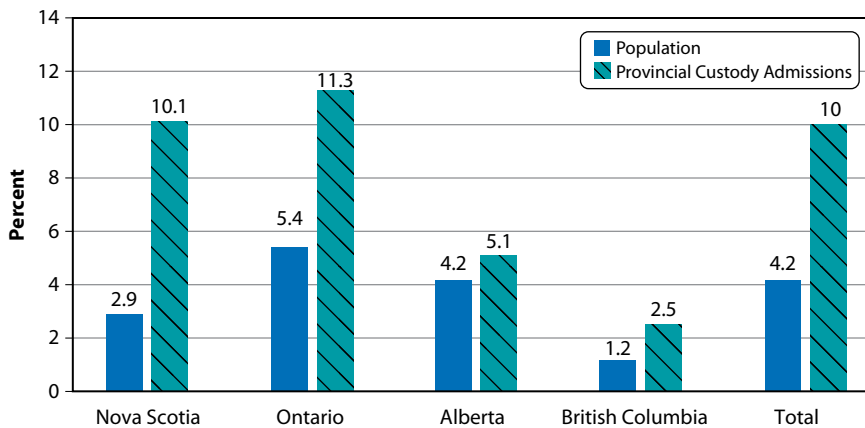
\*\* Rate refers to rate per 100,000 population.

The data used in Table 1.4 were compiled from the following sources: Statistics Canada. (2024). *Table 35-10-0203-01 Admissions to adult corrections by visible minority group and sex* [Data table]. <https://doi.org/10.25318/3510020301-eng>; and Statistics Canada. (2023). *Census profile, 2021 census of population*. <https://www12.statcan.gc.ca/census-recensement/2021/dp-pd/prof/index.cfm?Lang=E>.

Figure 1.8 reveals that, compared with their prevalence in the general population, Black peoples are overrepresented in the provincial correctional population of all provinces that have reported data on racial minorities. However, Black peoples are particularly overrepresented in the provincial correctional facilities in Ontario and Nova Scotia. Although they represent only 2.9 percent of the population of Nova Scotia, they represent 10.1 percent of Nova Scotia’s prison population. In other words, Black people are 3.8 times more likely to appear in Nova Scotia’s prison population than their prevalence in the general population would predict.

As discussed above, Black people in Ontario are 2.1 times more likely to appear in that province's correctional population. When we combine the statistics for all four provinces with data available, Black peoples represent 4.2 percent of the general population but 10.0 percent of these provinces' provincial prison population. In these four provinces combined, the provincial corrections rate for Black people (901.3 per 100,000) is 2.35 times the provincial average (382.9 per 100,000).

**FIGURE 1.8 Black Peoples as Percentage of the General Provincial Population Versus Percent Admissions to Provincial Correctional Supervision, Nova Scotia, Ontario, Alberta, and British Columbia, 2022–23**



Source: Statistics Canada. (2024). *Table 35-10-0203-01 Admissions to adult corrections by visible minority group and sex* [Data table]. <https://doi.org/10.25318/3510020301-eng>.

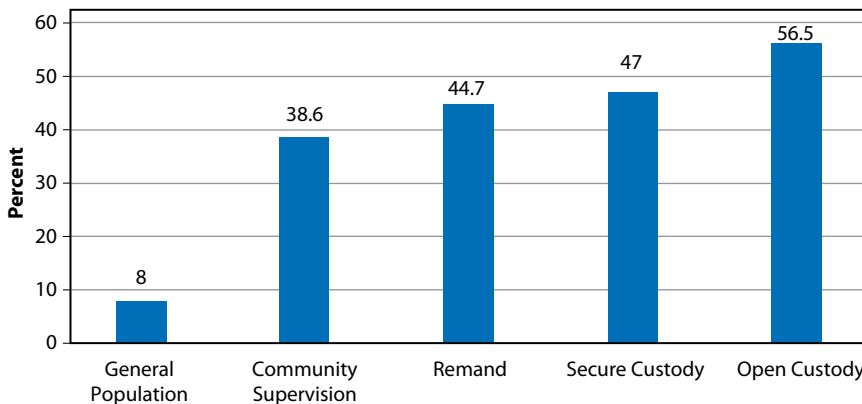
The overrepresentation of Black peoples has also been documented by Owusu-Bempah and his colleagues (2023) using Ontario data on people released from Ontario provincial prisons. In 2010, Black men represented 12.8 percent of males in custody in Ontario prisons, despite representing only 5 percent of the province's adult male population. Overall, the rate of Black males released from custody (4,109 per 100,000) was five times greater than the rate for White males (771 per 100,000). Similarly, the rate of Black females released from custody (259 per 100,000) was 2.7 times greater than the rate for White females (96 per 100,000). Owusu-Bempah and colleagues suggest that, in 2010, 1 out of every 14 Black adult males in Ontario experienced incarceration in Ontario's provincial jails and prisons, compared to 1 out of every 71 White males.

In summary, the statistics available reveal that Black peoples, like Indigenous peoples, are grossly overrepresented in Canada's adult correctional system at both the federal and provincial levels.

### A Note on Youth Corrections

Available data on the racial background of Canada's youth corrections population is even more limited than race-based data on the adult population. However, the data that has been released suggests that Black and Indigenous overrepresentation may be even greater in Canada's youth correctional system than in the adult system (see Figure 1.9). For example, in 2022–23, Indigenous youth accounted for only 8 percent of Canada's youth population (aged 12–17 years). However, they represented 39 percent of those under provincial community supervision, 45 percent of those remanded to custody in a youth correctional facility, 47 percent of those sentenced to secure custody, and 56.5 percent of those sentenced to open custody facilities. By comparison, Indigenous adults present 32 percent of those incarcerated in Canada's federal prisons and 34 percent of those held in provincial correctional facilities. Overall, in 2022–23, Indigenous youth were 7.1 times more likely to be held in a youth open-custody facility than their prevalence in the general Canadian population would predict, and 5.9 times more likely to be held in a youth prison.

**FIGURE 1.9** Percent Representation of Indigenous Youth in Canada's General Population Versus Youth Corrections, 2022–23



Source: Statistics Canada. (2024). *Table 35-10-0007-01 Youth admissions to correctional services, by Indigenous identity and sex* [Data table]. <https://doi.org/10.25318/3510000701-eng>.

Very little correctional data has been released documenting youth from other racial backgrounds in the youth justice system. However, a recent document released by the Department of Justice Canada (2022) suggests that Black youth are significantly overrepresented in reporting jurisdictions. For example, although Black youth make up only 4 percent of the youth population of Nova Scotia, Alberta, and British Columbia, they represent 10 percent of those admitted to youth correctional services in these three provinces. In other words, in these three provinces,

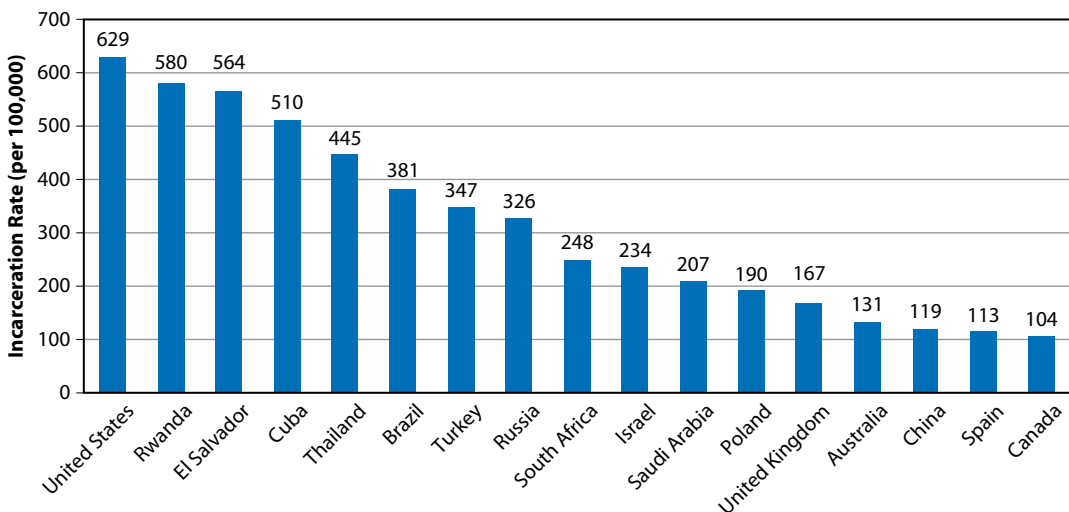
Black youth are 2.5 times more likely to appear in the youth justice system than their prevalence in the general population would predict.

### Comparing Canada with the United States

According to the *World Prison Population List*, compiled by England’s Institute for Crime and Justice Research, the United States has the largest per capita prison population in the world. In 2021, the United States had an estimated incarceration rate of 629 per 100,000, much higher than the global average of 140 per 100,000 (see Fair & Walmsley, 2021). Canada, by contrast, reported a total incarceration rate of 104 per 100,000, slightly below the global average (see Figure 1.10). However, it is important to note that Canada’s incarceration rate is much higher than many European, Asian, and African nations (see Figure 1.11).

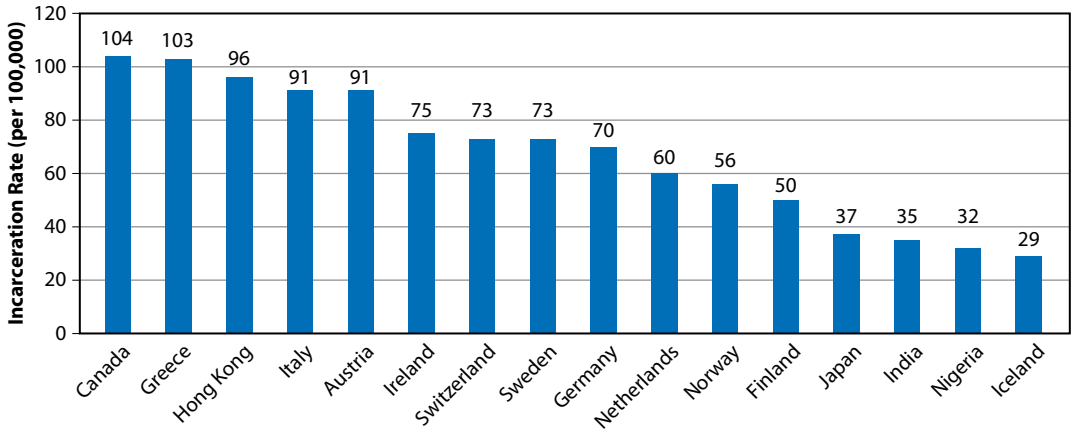
Numerous scholars, political leaders, and community leaders have noted that, in addition to being the world’s leading incarcerator, America’s incarceration practices have had a hugely disproportionate impact on Black, Hispanic, and Indigenous populations (Alexander, 2010; Mauer, 2006). For example, in 2022, the incarceration rate for Black Americans (911 per 100,000) was 4.8 times greater than the incarceration rate for White Americans (188 per 100,000). The incarceration rates for both Indigenous Americans (801 per 100,000) and Hispanic Americans (426 per 100,000) were also significantly higher than the rate for White Americans (see Figure 1.12). As in Canada, Asian peoples in the United States have a lower incarceration rate than all other racial groups (71 per 100,000) (Carson & Kluckow, 2023).

**FIGURE 1.10** Selected Nations with a Higher Incarceration Rate than Canada (per 100,000), 2021



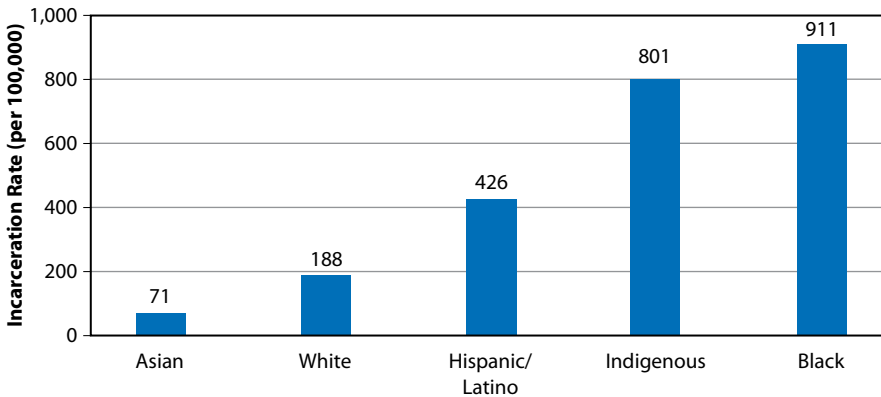
Source: Fair, H., & Walmsley, R. (2021). *World prison population list: 13th edition*. Institute for Crime and Justice Research.

**FIGURE 1.11 Selected Nations with a Lower Incarceration Rate than Canada (per 100,000), 2021**



Source: Fair, H., & Walmsley, R. (2021). *World prison population list: 13th edition*. Institute for Crime and Justice Research.

**FIGURE 1.12 American Incarceration Rates (per 100,000), by Racial Group, 2022**



Source: Carson, A., & Kluckow, R. (2023). *Prisoners in 2022—Statistical tables*. United States Department of Justice, Bureau of Justice Statistics.

Due to the incomplete release of race-based corrections data in Canada, it is extremely difficult to directly compare American and Canadian race-based incarceration rates. However, it is important to note that in 2021–22 the combined federal-provincial prison custody rate for Indigenous people in Canada (1,025 per 100,000) was greater than the 2022 incarceration rates for Black Americans (911 per 100,000), Indigenous Americans (801 per 100,000), and Hispanic

Americans (426 per 100,000).<sup>3</sup> Furthermore, compared with their proportion of the population, Indigenous peoples in Canada are 5.5 times more likely to appear in federal corrections and 6.1 times more likely to appear in provincial corrections. By contrast, compared with their proportion of the US general population, Black peoples are 2.3 times more likely to appear in the American prison system. Similarly, Indigenous Americans are only 1.5 times more likely to be incarcerated than their prevalence in the general US population would predict. Clearly, these statistics reveal that the overrepresentation of Indigenous peoples in Canada's correctional system is even greater than the overrepresentation of both Black and Indigenous peoples in American prisons.

Due to a lack of provincial-level data, it is virtually impossible to directly compare the incarceration rate for Black Canadians with the rate for Black Americans. However, the available data suggest that, although the overall rate of Black incarceration may be significantly higher in America, the degree of Black overrepresentation is just as high in Canada as it is in the United States. For example, in the United States, Black people represent approximately 13.6 percent of the general population and 32 percent of the prison population. Both Black Americans and Black Canadians are approximately 2.3 times more likely to be incarcerated than their prevalence in the general population would predict.

### Explaining Indigenous and Black Overrepresentation

Our review of Canadian corrections data produced several important findings:

- Both Indigenous and Black peoples in Canada are grossly overrepresented in the Canadian correctional system at both the federal and provincial levels.
- White people and people from other racial minority groups (including Asian and South Asian peoples) are significantly underrepresented in Canada's correctional system.
- Indigenous and Black overrepresentation is greater among the incarcerated population than among those under community supervision.
- Indigenous and Black overrepresentation is greater in maximum security prisons than in minimum security facilities.
- Over the past 20 years, the proportion of Canada's prison population that identifies as either Indigenous or Black has increased while the proportion that identifies as White has decreased significantly.

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3 The combined federal-provincial incarceration rate for Indigenous peoples in Canada was produced by combining the 2020–21 federal Indigenous incarceration rate (see Table 1.1) with the 2021–22 provincial sentenced-to-custody rate for Indigenous peoples (see Table 1.3).

- Although America's incarceration rate is much higher than Canada's, racial disparities in the Canadian correctional system are just as profound as those in the United States.

The fact that Indigenous and Black peoples are overrepresented in the Canadian corrections system is indisputable. However, there is great debate when it comes to explaining this overrepresentation. On the right side of the political equation, many Conservative politicians and criminal justice officials maintain that the overrepresentation of Indigenous and Black peoples in the Canadian criminal justice system is the direct result of racial differences in criminal behaviour. The “higher-offending hypothesis” maintains that Canada's criminal justice system is fair, objective, and treats all people equally. Thus, if Indigenous and Black peoples are more likely to become involved in Canada's corrections system, it is because they engage in more criminal behaviour than people from other racial groups.

On the left side of the political equation, critical scholars, political leaders, and community advocates argue that Indigenous and Black overrepresentation in Canada's correctional system is the direct result of a racially biased criminal justice system. The “bias hypothesis” maintains that the Canadian criminal justice system is governed by racially biased laws that contribute to racially biased police practices, racially biased criminal court outcomes, and racially biased correctional traditions. Proponents of the bias hypothesis argue that the cumulative impact of both systemic- and individual-level bias within the justice system has had a disproportionately negative impact on both Indigenous and Black peoples in Canada.

### ***A Blended Explanation***

In the chapters that follow, we argue that the overrepresentation of Black and Indigenous peoples in Canada's criminal justice system is the result of *both* higher levels of offending and racial bias within the justice system. Our “blended hypothesis” maintains that higher levels of criminal offending and systemic bias have roots in our colonial history and a political system that both created and reinforced racial disparities in Canada. We will argue that Canadian history has directly contributed to contemporary racial inequalities that have produced the social conditions under which street crime (violence, robbery, theft, drug trafficking, sexual offences, etc.) are most likely to emerge. We will highlight that Canadian criminal laws have traditionally focused on the behaviours of poor, socially disadvantaged communities while at the same time downplaying the crimes of the wealthy (including corporate, financial, and environmental offences). We will also argue that both systemic and individual biases exist within all major Canadian justice institutions, including the police, the criminal courts, and corrections, and that racially biased practices are often reinforced or justified by higher levels of offending among Indigenous and Black populations. Finally, we will demonstrate that even a small level of racial bias

at each point of the criminal justice process can accumulate and significantly contribute to the gross overrepresentation of Indigenous and Black peoples in Canada's criminal justice system.

### Outline of Chapters in this Book

Chapter 2 explores how race and racism contributed to the development of the current Canadian state. We argue that ideas of racial superiority were used to justify the confiscation of Indigenous lands and the colonization of Canadian territories. We demonstrate that racist theories also contributed to the rise of residential schools and attempts to destroy Indigenous cultures and traditions. Furthermore, although slavery never technically existed in Canada, the colonial powers that built Canada financially benefited from the institution of slavery. Prior to confederation, slavery existed in both Upper and Lower Canada and many early legislators owned slaves. This chapter also discusses how a large proportion of the Black community in Canada migrated from regions of the world that were devastated by the slave trade—including the United States and the Caribbean islands. We also highlight the role that racism played with respect to establishing systems of racial inequality and segregation in Canada and how it prevented immigration from non-European countries. Importantly, this chapter explores how racism directly contributed to the development of the criminal law in Canada. We pay particular attention to how racialized fears contributed to the criminalization of cannabis and other substances. The chapter concludes by discussing how overt and systemic racism directly affected Black and Indigenous peoples' initial relationship with the Canadian state. We demonstrate how historical racism eventually produced multigenerational traumas that continue to affect contemporary racial disparities with respect to child welfare, education, employment, household income, and involvement in the criminal justice system. We argue that it is not a coincidence that the two racial groups that European colonization had the most negative impact on—Black and Indigenous peoples—are also the two groups most overrepresented in Canada's criminal justice system.

Chapter 3 explores the relationship between race and both criminal offending and victimization. We examine both official and unofficial data which reveal that Black and Indigenous peoples are overrepresented—as both victims and offenders—with respect to certain types of violent street crime, including homicide, attempted homicide, aggravated assault, illegal possession of firearms, robbery, and drug trafficking. By contrast, Black and Indigenous peoples are significantly underrepresented among those guilty of white-collar crime, corporate crime, financial crime, and environmental offences. Sections of this chapter will focus on the impact of gun violence on socially disadvantaged Black and Indigenous communities, the impact of hate crime victimization on racialized communities across Canada, and the impact of racialized media coverage of crime on the formation of **racial stereotypes**. The

chapter then reviews various criminological and sociological theories that have been used to explain the overrepresentation of Black and Indigenous peoples in criminal behaviour. Although many theories focus on individual-level risk factors, this chapter argues that Canada's long history of racism and racial inequality has produced multigenerational traumas that continue to affect contemporary social outcomes—including involvement in criminal behaviour. The chapter concludes with a discussion of how racial differences in street offending may explain some—but not all—of the racial disparities observed in Canada's justice system. Racial bias within policing, the courts, and corrections are also important explanatory factors.

Chapter 4 begins with a review of survey data that suggest that Black and Indigenous peoples have less trust and confidence in the police than people from other racial backgrounds. Survey data also reveal that, regardless of race, a high proportion of Canadians feel that the police treat Black and Indigenous peoples worse or much worse than they treat others. Importantly, research suggests that perceptions of police discrimination have increased over the past 25 years despite police efforts to improve relationships with racialized communities. We argue that perceptions of discrimination undermine the legitimacy of the justice system and have a negative impact on its operation; negative impacts include reluctance to report crime to the police, cooperate with police investigations, and testify in court. As a result, perceptions of injustice may increase the likelihood of so-called street justice and vigilantism. This chapter then explores various explanations for why perceptions of police discrimination persist—explanations include immigration from countries with corrupt or unprofessional police services, exposure to American media coverage, peer and family socialization processes, and direct and vicarious exposure to discriminatory police activity. The balance of the chapter explores evidence of police bias and argues that perceptions of police discrimination are based on both historical and contemporary realities. We explore research evidence of racial bias with respect to police surveillance activities (e.g., racial profiling), police deployment patterns, police discretion with respect to arrest and diversion decisions, police use of force, and police collection and presentation of evidence in court. The chapter also discusses how police work, including exposure to the police subculture, may serve to reinforce racial stereotypes and racially biased police practices.

Chapter 5 explores research evidence that documents racial bias in Canadian criminal courts. We review studies that demonstrate how race may have an impact on pre-trial decision-making (including remand decisions and the application of pre-trial release conditions), conviction rates, and sentencing decisions. A section of this chapter focuses on how a victim's race affects the severity of the punishment handed out at the sentencing stage of the court process. This chapter also describes how an underfunded legal aid system has a disproportionate impact on Black, Indigenous, and other racialized communities.

Chapter 6 explores research evidence that documents racial bias within Canadian corrections. We review studies that suggest that race may have an impact on correctional risk assessments, probation conditions, institutional placements, prison discipline, and parole decisions. A section of this chapter discusses the development of Indigenous programming in Canadian prisons. However, the chapter also highlights how a lack of culturally sensitive rehabilitation programs may increase the recidivism rates for Black and other racialized offenders. The chapter concludes with a discussion of whether existing reintegration services meet the needs of Black and Indigenous offenders once they are released into the community.

Chapter 7 focuses on crime prevention strategies that may help reduce Black and Indigenous peoples' involvement in criminal activity. We focus on strategies that have been identified as "promising" or "proven" by the evaluation literature. We also discuss popular programs that have been proven ineffective. We review targeted law enforcement tactics, early childhood education programs, adult mentorship programs, educational enhancement programs, career development programs, and sports and recreation programs. A section of this chapter focuses on programs that are designed to improve cultural and racial pride and develop resistance to the negative effects of racial discrimination. The chapter concludes by discussing how true crime prevention cannot be achieved without significant investment in culturally sensitive community development.

Chapter 8 (the final chapter) explores strategies designed to reduce both individual and systemic racial bias within the criminal justice system. We explore specific strategies, including diversity recruitment and promotion strategies, anti-bias training, body cameras, community policing, social history reports, culturally sensitive correctional programming, community-based reintegration programming, and enhanced civilian oversight. This chapter concludes by highlighting the need for improved race-based data throughout the Canadian criminal justice system. We argue that high-quality race-based data is needed to document racial disparities within the system; identify the reasons for these disparities; and evaluate the effectiveness of strategies designed to reduce bias in Canadian policing, courts, and corrections. The book concludes by examining the prospects for meaningful reform, considering Canada's long history of resistance among government and justice officials to the idea that racial bias is a problem within the Canadian context.

## CHAPTER SUMMARY

Chapter 1 introduces the topic of race, crime, and criminal justice in Canada. It defines race as a social construct—something invented by people through social interaction—rather than a biological or genetic reality. The chapter demonstrates that the concepts of race and racial superiority were used by Europeans to justify the colonization of Indigenous lands and the enslavement of Black peoples.

The legacy of colonization and slavery continues to have an impact on social outcomes today—including involvement in the criminal justice system. The chapter uses statistics to demonstrate that both Black and Indigenous peoples are grossly overrepresented in Canada’s correctional systems. As in the United States, the incarceration rate of Black and Indigenous peoples in Canada is several times higher than the incarceration rate of White people and people from other racial minority groups. The data further demonstrate that racial disparities exist across Canada at both the federal and provincial levels and that the overrepresentation of Black and Indigenous peoples in the Canadian correctional system has increased over the past two decades. The chapter concludes by offering two contrary explanations for why Indigenous and Black peoples are overrepresented in Canadian prisons: (1) Black and Indigenous peoples are more likely to engage in crime than people from other racial groups; and (2) Black and Indigenous peoples are subject to racial discrimination within policing, the criminal courts, and corrections. These issues are addressed in the remainder of the book.

## KEY TERMS USED IN THE STUDY OF RACE AND RACISM

The definitions below relate to important terms and concepts used when discussing issues related to race and racism. These terms are used frequently throughout this book (and are included in the full glossary). The terms below are not listed in alphabetical order; rather, they are presented in a manner that will build understanding and promote discussion. The terms marked with an asterisk (\*) do not appear in Chapter 1, but they are relevant to the chapters that follow. We will define other important terms in the chapters in which they are discussed.

**race:** A term used to classify people into groups based principally on physical traits (phenotypes) such as skin colour. Racial categories are not based on biology or genetics; they are created through human interaction and social dynamics. In other words, race is “socially constructed” by people as they interact with one another in a competitive social environment. Racial categories vary over time and place and can overlap with ethnic, cultural, or religious identities (see Government of Ontario, 2021).

**ethnicity:** Refers to a person’s cultural or social attributes and can include one’s national origin (e.g., Canadian, French, English, Jamaican, Chinese), language, religion, and cultural traditions (e.g., food, music, dress). Ethnicity is not race.

**prejudice:** To pre-judge or make assumptions about someone based on their personal characteristics (gender, age, race, ethnicity, religion, sexual orientation, etc.).

**racial prejudice:** To pre-judge or make assumptions about someone based on their racial background.

**stereotypes:** Preconceived ideas, notions, or beliefs about specific types of people, professions, entities, objects, situations, neighbourhoods, or communities. Stereotypes can be positive or negative. For example, consider common stereotypes about lawyers. One positive stereotype portrays lawyers as intelligent, educated, and knowledgeable. However, the legal profession often suffers from negative stereotypes as well, including the idea that lawyers are self-serving, manipulative, and greedy. Consider how these stereotypes may impact interactions between a lawyer and a new client.

**racial stereotypes:** Preconceived ideas, notions, or beliefs about people from different racial backgrounds. Racial stereotypes can be positive or negative. Importantly, racial stereotypes can affect how people are treated.

**discrimination:** Treating someone differently or unfairly because of their personal characteristics (age, gender identity, race, religion, ethnicity, citizenship status, disability, sexual orientation, etc.). Discrimination often involves imposing a burden on a person or denying them a position, resource, benefit, or opportunity because of their personal characteristics.

**racial discrimination:** Treating someone differently or unfairly because of their racial background.

**racism:** Prejudice, stereotyping, antagonism, or discrimination against a person or group of people because of their racial background.

**anti-Black racism\*:** Prejudice, attitudes, beliefs, stereotyping, and discrimination that is directed at people of Black racial background or African descent and is rooted in their unique history and experience of enslavement and colonization. First used in the Canadian context by Dr Akua Benjamin, Professor Emeritus and former director of Toronto Metropolitan University's School of Social Work (Toronto Metropolitan University, 2024).

**anti-Indigenous racism\*:** Prejudice, attitudes, beliefs, stereotyping, and discrimination that is directed at people of Indigenous descent and is rooted in their unique histories and experiences of colonization and segregation. Both anti-Black and anti-Indigenous racism are deeply entrenched in Canadian institutions, policies, and practices. Anti-Black racism and anti-Indigenous racism are highlighted by the current social, economic, and political marginalization of Black and Indigenous peoples, which includes unequal opportunities, lower socioeconomic status, higher unemployment, higher rates of poverty, and overrepresentation in the criminal justice system (see Government of Ontario, 2021).

**overt racism\*:** Negative feelings of hate or dislike for people from other racial groups, also known as racial malice. Overt racism refers to individual feelings rather than systemic or institutional structures. Overt racism can affect how individuals

treat people from other racial groups. Overt racism among people in positions of power—like police officers or judges—can result in the harsher treatment of racial minorities. People often associate overt racism with the Ku Klux Klan (KKK) and other white supremacist groups.

**conscious racism\***: Racist ideas or beliefs that the subject is aware of. Overt racism, or racial malice, is conscious bias because the individual who holds these beliefs is aware of their thoughts and feelings about people from other races.

**unconscious or implicit bias\***: Subconscious attitudes, stereotypes, or feelings that affect our understanding of, decision-making about, and behaviour toward people from different racial groups. Implicit bias can affect people's actions without them realizing or being conscious of their racist thinking or reactions. Implicit biases are automatic and do not require active thinking. Many people find their unconscious reactions and biases to be inappropriate or even repulsive when they become aware of them.

**statistical discrimination\***: The act of treating individuals differently based on the analysis of aggregate or group-based statistics. For example, regardless of their personal driving record, young male drivers pay higher insurance premiums than others because, as a group, young males are more likely to speed, drive while intoxicated, and become involved in serious traffic accidents. Thus, even excellent young male drivers must pay higher insurance premiums because of the overall driving performance of their group. This is a form of statistical discrimination used by insurance companies.

**individual racism\***: Racial stereotypes, beliefs, or feelings—conscious or unconscious—held by an individual toward people from specific racial groups.

**systemic racism**: Biased laws, regulations, practices, and behaviours that become part of the structure of an organization, institution, or government. These systemic factors combine to have a disproportionately negative impact on some racial groups, while providing advantages or benefits to others. Importantly, systemic racism does not reflect the racial biases of individual actors but rather the disparate impact that systems and institutions have on people from different racial groups (see Canadian Heritage, 2019). An example of systemic racism is the role that employment plays in determining whether someone is granted bail or held in custody prior to their trial. Unemployed people are less likely to be granted bail because they are seen as a flight risk (i.e., they don't have a job to keep them in the community) and because they often don't have the money needed for a surety. On the surface, this practice appears race-neutral because it involves employment status, not race. However, consider the fact that Indigenous and Black peoples have much higher unemployment rates than White people. The use of employment status to determine bail has evolved into a form of systemic bias that renders Indigenous and Black accused

more vulnerable to pre-trial detention than their White counterparts, because they are more likely to be unemployed.

**intersectionality\***: The ways in which people’s lives are shaped by their multiple and overlapping identities and social locations. Combined, multiple identities can produce unique and distinct experiences, opportunities, and outcomes for individuals or groups. For example, in general, Black people may receive harsher police treatment than White people. However, Black males may receive even harsher treatment than Black females (see Chapter 4).

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

## DISCUSSION QUESTIONS

1. Experts agree that race is a social invention rather than a biological state or condition. How might the creation of racial categories contribute to colonization, oppression, and social systems marked by inequality?
2. Think about common racial stereotypes. What stereotypes are attributed to Indigenous people? Black people? Asian people? What are the stereotypes attributed to White people?
3. In your opinion, how do racial stereotypes develop? What causes people to hold racial stereotypes or racist beliefs?
4. What is the difference between systemic and individual racism? Identify one example of systemic racism faced by Black and/or Indigenous people?
5. What factors contribute to the overrepresentation of Black and Indigenous peoples in the Canadian correctional system? Why are Asians and South Asians underrepresented?
6. In your opinion, why is the incarceration rate in the United States much higher than the incarceration rate in Canada?

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