



Systemic Discrimination Affecting Persons of African Descent in Nova Scotia Jails

A Report Focused on Patterns
of Prisoner Isolation

Authored by
Randolph Riley

December 2025

Acknowledgements

This report would not have been possible without expert data analysis provided by Dr. Finlay Maguire on a volunteer basis, followed by further data analysis from the Maritime SPOR SUPPORT Unit (MSSU), which, guided by our questions, produced the Tables included in this report.

I would also like to thank two very influential members on our board, Sheila Wildeman and Dr. El Jones, for assisting in the research process and for answering my loads of emails and texts regarding so many different stumps I encountered in writing this report. Thanks for keeping me focused to completion! Thank you from the bottom of heart!

Financial support for this report came from the Law Foundation of Nova Scotia, the Northpine Foundation and Dalhousie's Health Justice Institute.

Last, thanks to my legal counsel Trevor McGuigan, for his steady focus and friendship throughout this transformative journey in my life.

Report designed by Donica Willis.

Dedication

This report is dedicated to my dear friend Harry Critchley, who devoted a great deal of time and care to ECPJS, including by providing legal information and support to incarcerated people calling our toll-free phone line accessible from Nova Scotia's provincial jails. I met Harry while I was incarcerated and he played a big role in bringing me into ECPJS. He is deeply missed.

Table of Contents

I. Introduction and Overview of Findings	5
II. Systemic Anti-Black Discrimination in Federal Prisons	10
III. Systemic Anti-Black Discrimination in Nova Scotia	15
IV. Overrepresentation of People of African Descent and other Chronic Problems in Nova Scotia's Jails	20
Overrepresentation of Persons of African Descent	20
Conditions and treatment in provincial jails: background	21
ECPJS Access to Information Requests	23
V. Prisoner Isolation in Nova Scotia's Jails, 2021 and 2022: Evidence of Systemic Discrimination Against People of African Descent	25
Prisoner Isolation – Systemic Patterns	25
VI. Conclusion	32
The Need for More Disaggregated Data	33
The Need for Comprehensive Action	33



SECTION 01

Introduction and Overview of Findings



I. Introduction and Overview of Findings

My name is Randolph Riley. I come from the African Nova Scotian community of Lake Loon, near Halifax. There, the Rileys are known as community builders and history keepers. My fifth-generation grandfather William Riley was the builder of Riley Road, the first road in the community. He was also known as a singer of spiritual songs passed down through the family. One of those songs was “No More Auction Block,” which you can hear among others in a recording made by Helen Creighton in 1943.¹ Myself, along with Dr. El Jones co-authored a chapter in a collection of writings discussing the Black experience in Canada in 2020 titled “Until We Are Free” where we reflect on that song and how its lyrics, “No more auction block for me,” continue to resonate through my family and my community to this day.²

In 2018 I was wrongfully convicted on a charge of second-degree murder. It took eight and a half years (six remanded to provincial jail and two and a half in federal prison) and a legal fight all the way to the Supreme Court of Canada before I was finally able to clear my name. Even after the country’s highest court overturned my conviction, Nova Scotia’s Provincial Prosecution Service pursued a retrial: a process that was plagued by prosecutorial adjournments pushing the law on timely hearings and by steadfast refusal on the prosecution’s part to grant my request for a judge-alone trial – adding to the delays and ultimately forcing me to face an all-white jury for the second time.³

Upon receiving a life sentence in 2018, I was shipped to Atlantic Institution, a maximum-security federal prison in Renous, New Brunswick. A few months after my arrival I was voted Chair of the Inmate Committee. This role involved representing the prisoner population in front of management at monthly warden meetings where I would advocate for issues of concern to prisoners, from the canteen budget, to prisoner employment, to facilitating events for prisoners and families and other matters affecting our daily and long term interests.

My duties as Committee Chair also included meeting with representatives of the federal Office of the Correctional Investigator (OCI). Those meetings included discussion of the office’s annual reports. I learned that the OCI had published a special report in 2014 (updated in 2021-22)⁴ indicating that persons of African descent⁵ incarcerated in federal prisons experience worse treatment and outcomes on several measures. I describe those conclusions, and other similar findings of systemic anti-Black discrimination in the federal prison system, later in this report.

¹ See Sherri Borden-Colley, “Decades-old black Nova Scotian music gets new life after remastering” (CBC News, May 1, 2019). <https://www.cbc.ca/news/canada/nova-scotia/anti-slave-songs-african-nova-scotians-cd-launch-folklorist-1.5117008> (link to recording accessible from that site).

² Randolph Riley & El Jones, “Many A Thousand Gone” in Rodney Diverlus et al, eds, *Until We Are Free: Reflections on Black Lives Matter in Canada* (Regina: University of Regina Press, 2020).

³ See R. v. Riley, 2023 NSSC 81 (CanLII), <<https://canlii.ca/t/k0xj6>> (esp at paras esp paras 1-17, 33-45). See also Tim Bousquet, “Why you should care about the Crown’s problematic case against Randy Riley” Halifax Examiner (Sept 25, 2023) <https://www.halifaxexaminer.ca/morning-file/why-you-should-care-about-the-crowns-problematic-case-against-randy-riley/>; El Jones, “The prosecution of Randy Riley rests on racist tropes of violent and animalistic Black men and a vulnerable, unquestionable white woman” Halifax Examiner (Sept 24, 2023) <https://www.halifaxexaminer.ca/commentary/the-prosecution-of-randy-riley-rests-on-racist-tropes-of-violent-and-animalistic-black-men-and-a-vulnerable-unquestionable-white-woman/>; Michael Tutton, “Jury finds Halifax man not guilty of murder in retrial that saw key witness recant” CBC News (Oct 5, 2023) <https://www.cbc.ca/news/canada/nova-scotia/jury-finds-halifax-man-not-guilty-of-murder-in-retrial-that-saw-key-witness-recant-1.6987776>.

⁴ Correctional Investigator of Canada. *A Case Study of Diversity in Corrections: The Black Inmate Experience in Federal Penitentiaries* (Ottawa: Office of the Correctional Investigator, 2014); *Annual Report of the Correctional Investigator (2021-22)* (Ottawa: Office of the Correctional Investigator, 2022). [2021-22 OCI Report]

⁵ Throughout this report I use the term “persons of African descent” rather than “Black,” except when describing reports produced by others that use the term “Black” as a category for self-identification and/or reporting. “Black” is a social construct that in my view does not adequately define the shared identity, history or geographical origins of a people.

These findings of the OCI and other bodies provide mainstream legitimacy to concerns that prisoners of African descent have raised for a long time. Yet despite growing attention to systemic anti-Black discrimination in federal prisons, there has been little or no attention to similar issues in provincial jails. As Zilla Jones and Akwasi Owusu-Bempah write:

While a small number of studies document the overrepresentation of Black people in provincial institutions (see for example, Owusu-Bempah and Wortley, 2014; Owusu-Bempah et al., 2023), limited data at the provincial/territorial level means that much of our understanding of the incarceration of Black people in Canada centres on the federal system.⁶

Research confirms that Black individuals in Nova Scotia⁷ and elsewhere in Canada⁸ are more likely to be stopped by police (“street checked”) than non-Black individuals. Nova Scotia’s Correctional Services branch further confirms that Black individuals are disproportionately represented (at 4-5 times their presence in the background population) in the province’s jails, where over 70% of incarcerated persons are in pre-trial custody.⁹

Beyond these established indicators of systemic anti-Black discrimination in Nova Scotia’s policing and carceral systems, the East Coast Prison Justice Society [ECPJS] Visiting Committee has since 2020 received calls from provincially incarcerated people of African descent sharing concerns that they receive harsher treatment while in jail.¹⁰ This report makes a start on investigating those concerns. It describes my efforts to obtain data on the experiences and treatment of people incarcerated in Nova Scotia’s jails and to assess that information for signs of systemic anti-Black discrimination.

I began research for this report while working part-time with ECPJS in the months prior to my retrial. At the time I was under house arrest. Among my pre-trial release conditions was a requirement to wear an electronic monitoring bracelet. That bracelet and the conditions associated with it were a concrete reminder of the connection between me and my enslaved forbearers in which it significantly restricted when and how I could do this research and other work, including on my own legal case. I was billed \$700 per month for the electronic monitoring required to maintain my release pending my new trial. If not for support from Dr. El Jones, ECPJS and others who employed and assisted me, I doubt I would have been able to win back my freedom let alone prepare this report.

⁶ Akwasi Owusu-Bempah and Zilla Jones, *A Roadmap for Transformative Change: Canada’s Black Justice Strategy* (Canada: Department of Justice Canada, 2024) at 44 [Canada’s Black Justice Strategy]. See also Akwasi Owusu-Bempah, Jung, M., Sbaï, F., Wilton, A. S., & Kouyoumdjian, F., “Race and Incarceration: The Representation and Characteristics of Black People in Provincial Correctional Facilities in Ontario, Canada” (2023) 13(4) *Race and Justice* (online 2021: <https://doi.org/10.1177/21533687211006461>).

⁷ Wortley, Scot, *Halifax, Nova Scotia: Street Checks Report*. (Nova Scotia Human Rights Commission / University of Toronto Centre for Criminology & Sociolegal Studies, 2019).

⁸ Wortley, S. & Jung, M. *Racial Disparity in Arrests and Charges: An analysis of arrest and charge data from the Toronto Police Service*. (Ontario Human Rights Commission, 2020).

⁹ See Section IV, below.

¹⁰ ECPJS Visiting Committee [VC] Annual Report 2020-21 at 38:

The VC received reports of incidents of racism directed toward African Nova Scotian and Indigenous prisoners. It was reported to the Committee on August 27, 2020 that Black people in custody are put in segregation more often and for longer periods of time. There were also perceptions that they were being refused access to the canteen and that they had a harder time getting access to their prescription medications. A different detainee told the VC that Black and Indigenous people in custody continue to be targets of racism from guards, that they are less likely to be provided with their medication, and that their complaints and suggestions are not taken seriously or investigated.

Available at <https://www.eastcoastprisonjustice.ca/projects.html>

After a few months on the ECPJS jail phone line I turned my attention to this research. The idea was to build out from my own experience of wrongful incarceration and the concerns raised by ECPJS callers with what evidence I could find on systemic anti-Black discrimination in Nova Scotia's jails. The report that follows begins with what other research tells us about systemic anti-Black discrimination in Canada's federal prisons. I then turn to Nova Scotia, including the wider fabric of racist laws and policies in this province reaching back generations and their legacies today, before taking up what we know and what ECPJS has recently learned about anti-Black discrimination in Nova Scotia's jails.

It is that final part, reporting on information ECPJS obtained through Freedom of Information requests, that delivers on my commitment to find evidence substantiating at least some of the concerns I and others have raised over the years. The data ECPJS obtained adds to what was already known about disproportionate representation of persons of African descent in Nova Scotia's provincial jails. Building out from that baseline with reference to one key indicator — prisoner isolation/segregation — this report establishes that persons of African descent are also disproportionately subject to the harshest conditions once inside.

ECPJS did not receive answers to all the questions I sought to explore for this report. For instance, now that we know that persons of African descent in Canada's federal prisons are overrepresented in disciplinary charges, use of force, and involuntary transfers, I wanted to know if the same was true in Nova Scotia's jails. However, no disaggregated data was forthcoming from Nova Scotia in response to our Freedom of Information requests on those topics. Neither were we able to explore other questions I had on race-related barriers to responsive health services.

However, what we did obtain was important: disaggregated data on individualized prisoner isolation. Specifically, we received data on the number of isolation events (time in isolation beyond one day) and duration of those events (days per instance of isolation) in each of Nova Scotia's jails from December 30, 2020 to December 30, 2022, *disaggregated according to race-ethnicity*.

Our primary findings are twofold.

First, in the two-year period for which ECPJS received information (2021 and 2022), prisoners self-identifying as Black were isolated for reasons other than COVID-19 and other medical bases at about the same rate (16%) as their already-inflated rate of provincial incarceration (discussed further below). Yet when we narrowed the data to a few high-risk / high-security rationales, isolation of Black prisoners increased to over 20% of isolation events. In contrast, Black prisoners were isolated for non-COVID-based "medical" reasons in fewer than 10% of incidents. The overall conclusion we draw is that Black prisoners are overrepresented in security-based isolation incidents in Nova Scotia's provincial jails, over and above their already inflated representation in the jails.

Second, turning from incidents to duration, Black prisoners were held in isolation for the longest continuous periods on average of any ethnic group during the period of our study, apart from a small group described by corrections as "Arab" (so small it confounds analysis and so is not included in our report). Specifically, Black prisoners were an increasingly large proportion of those isolated beyond 15, 30, 50 and 100 days, and were the majority of those held in isolation for the longest continuous periods. The prisoner isolated for the longest continuous period in 2021 and 2022 (*303 days*) was of African Descent.

These findings — that in 2021 and 2022, persons of African descent incarcerated in Nova Scotia’s jails were more often isolated for security reasons and spent longer continuous periods in isolation than persons of other ethnicities – speak clearly and powerfully to anti-Black systemic discrimination in Nova Scotia’s jails. Further, these findings are closely linked to other issues we hope to explore in future. That is, prisoner isolation compounds health problems and problems managing one’s legal and other affairs, increasing frustration and thereby making one more vulnerable to use of force, institutional charges, involuntary transfers and more health-harming isolation: a vicious cycle.¹¹ All these issues are related.

ECPJS is calling on Nova Scotia’s Justice department to routinely collect and share data disaggregated by race/ethnicity on prisoner isolation as well as involuntary transfers, disciplinary charges, and use of force. There is a similar need for disaggregated data from Nova Scotia Health (responsible for health care in Nova Scotia’s jails) to support comparative analysis of “health segregation” and access to health services in Nova Scotia’s jails.

Yet while disaggregated data is an important first step, what is needed is not just research, but action. Serious work must be done to address systemic anti-Black discrimination in Nova Scotia’s justice and carceral systems. ECPJS, in solidarity with other organizations including the African Nova Scotian Justice Institute [ANSJI] and the Advisory Committee on Canada’s Black Justice Strategy, calls on federal and provincial governments to take comprehensive measures to address anti-Black racism throughout Canada’s carceral systems, to end ongoing racial injustice and to promote a more equitable and just society.

¹¹ ECPJS VC Annual Report 2020-21 at 16-17; ECPJS VC Annual Report 2021-22 at 43-45; ECPJS VC Annual Report 2022-23 at 40. Reports available online at: <https://www.eastcoastprisonjustice.ca/projects.html>.



SECTION 02

Background: Systemic Anti-Black Discrimination in Federal Prisons

In Canada, people sentenced to 2 years or more in custody are held in federal “prisons” while those awaiting trial or sentenced to 2 years less a day are held in provincial “jails”. The following section focuses on what we know about anti-Black discrimination in Canada’s federal prisons.

II. Background: Systemic Anti-Black Discrimination in Federal Prisons

As I have described, when I was Inmate Committee Chair at Atlantic Institution, a maximum-security prison in Renous, New Brunswick, one of my responsibilities was to meet with representatives of the federal Office of the Correctional Investigator (OCI). The OCI was expected to identify issues of concern for all federal prisoners, paying special attention to prisoners in max institutions across the country. I asked what if any progress the OCI was making through their annual reporting on the systemic harms and barriers prisoners face in all aspects of life one must navigate inside.

What was shared with me was confirmed a few years later in the OCI's 2021-22 Annual Report,¹² which includes updates on evidence of anti-Black discrimination reported on almost ten years prior. The 2021-22 report indicated that Black individuals continue to be overrepresented in federal correctional facilities and are overrepresented as well at the highest levels of security. At a press conference introducing the 2021-22 report, Correctional Investigator Dr. Ivan Zinger stated:

I am very disappointed to report that the same systemic concerns and barriers identified nearly a decade ago, including discrimination, stereotyping, racial bias and labeling of prisoners of African Descent, remain as pervasive and persistent as before. In fact, the situation for prisoners of African Descent behind bars in Canada today is as bad, and, in some respects, worse than it was in 2013.¹³

Dr. Zinger further summarized the report's findings, noting:

Black prisoners are over-represented at maximum security institutions. As a group, Black individuals tend to serve more of their sentence behind bars at higher security levels before they cascade down. Black persons are more likely to be involved in a use of force incident regardless of risk or security level, age, sentence length or gender. Black prisoners are over-represented in involuntary transfers. They are subject to more frequent and longer placements in Structured Intervention Units. They incur more institutional charges and are more often designated as a security threat group affiliate. Despite overall lower rates of reoffending and lower returns to custody, Black persons are more likely to be assessed as higher risk, low motivation, and low reintegration potential.¹⁴

The OCI's findings are echoed in other reports. For instance, the Senate Standing Committee on Human Rights reported in 2021 on injustices occurring inside Canada's prisons, paying special attention to systemic discrimination against Indigenous and Black prisoners.¹⁵ In 2022, the Auditor General of Canada released a report on systemic

¹² Correctional Investigator of Canada. *Annual Report of the Correctional Investigator (2021-22)* (Ottawa: Office of the Correctional Investigator, 2022). [2021-22 OCI Report]

¹³ "Correctional Investigator says Situation for Black People in Canadian Federal Penitentiaries has not Improved Ten Years After Landmark Investigation" Press Release: Correctional Investigator of Canada (Ottawa, Nov 1, 2022). <https://oci-bec.gc.ca/en/content/correctional-investigator-says-situation-black-people-canadian-federal-penitentiaries-has>

¹⁴ Ibid.

¹⁵ Senate Standing Committee on Human Rights (Hon. Salma Atallahjan, Chair), *Human rights of federally-sentenced persons*, 4th report, 43rd Parliament, 2nd session (Canada: Senate Standing Committee on Human Rights, 2021), 210-234, 313-317. [Senate Standing Committee on Human Rights (2021)].

barriers in Correctional Service Canada [CSC] facilities and systems, falling hardest on Indigenous and Black prisoners who are both overrepresented in federal prisons and disproportionately placed in higher security.¹⁶ In the spring of 2024, a further report co-authored by Zilla Jones and Akwasi Owusu-Bempah was released: *A Roadmap for Transformative Change: Canada's Black Justice Strategy*. Jones and Owusu-Bempah reviewed past reports and added further analysis of systemic anti-Black discrimination society-wide and in criminal law and prison systems.¹⁷ Finally, a subsequent OCI report, tabled in Parliament in October, 2024, provided a further update on systemic anti-Black discrimination in federal prisons, adding to its prior findings that Black prisoners are also disproportionately represented among those with life sentences.¹⁸

All these reports build upon prior studies documenting systemic anti-Black discrimination throughout Canadian society. As a result, we know much more than we did ten years ago about the context, causes and consequences of systemic anti-Black discrimination in Canada's federal prisons. The following summarizes some of the most important findings to date.

Discriminatory Policing including Racial Profiling: Racial profiling by law enforcement plays a significant role in the overrepresentation of Black and Indigenous individuals in the prison and jail systems.¹⁹ The Street Checks report written by Scot Wortley on Nova Scotia policing revealed that stop-and-search practices, racial profiling, and other forms of biased policing contribute to the unjust targeting and criminalization of these communities.²⁰ This results in a higher likelihood of their interaction with the criminal justice system and higher incarceration rates.²¹ Other reports have made similar findings.²²

Disproportionate Representation and Securitization in Federal Prisons: Multiple reports reveal overrepresentation of Black individuals in Canada's federal prisons. In 2021-2022, Black individuals constituted 9.2% of persons in federal custody, yet just 3.5% of the Canadian population.²³ As noted, overrepresentation is highest at the highest levels of security.²⁴ These patterns of systematic overrepresentation have been widely acknowledged to be a direct consequence of systemic discrimination and broader socio-economic disparities and marginalization that individuals of African Descent and their communities face.²⁵

¹⁶ Auditor General of Canada, 2022 Reports of the Auditor General of Canada, *Report 4 – Systemic Barriers – Correctional Service Canada* (Ottawa: Auditor General of Canada, 2022).

¹⁷ *Canada's Black Justice Strategy*, *supra* note 6.

¹⁸ Correctional Investigator of Canada. *Annual Report of the Correctional Investigator (2023-24)* (Ottawa: Office of the Correctional Investigator, 2024) at 55, 65-66, 98-100, 126-147. [2023-24 OCI Report]

¹⁹ Scot Wortley & Akwasi Owusu-Bempah, "Race, police stops, and perceptions of anti-Black police discrimination in Toronto, Canada over a quarter century" (2022) 45(6) *Policing: An International Journal* 570; Akwasi Owusu-Bempah and Gabbidon, *Race, Ethnicity, Crime, and Justice An International Dilemma* (New York: Routledge, 2020); Senate Standing Committee on Human Rights (2021), *supra* note 15 at 313-317; Robyn Maynard, *Policing black lives : state violence in Canada from slavery to the present* (Black Point, NS: Fernwood Press, 2017).

²⁰ Scot Wortley, *Halifax, Nova Scotia: Street Checks Report* (Halifax: NS Human Rights Commission, 2019), <https://humanrights.novascotia.ca/streetchecks> ["Wortley Report"].

²¹ *Canada's Black Justice Strategy*, *supra* note 6 at 29-34; Senate Standing Committee on Human Rights (2021), *supra* note 15 at 313-317.

²² See, e.g., Ontario Human Rights Commission, *A Disparate Impact: Second interim report on the inquiry into racial profiling and racial discrimination of Black persons by the Toronto Police Service*. (Government of Ontario, 2020).

²³ 2021-22 OCI Report, *supra* note 12 at 45.

²⁴ The OCI reports consistent findings since 2013 that "Black persons are overrepresented in maximum security and underrepresented in minimum security." (2021-22 OCI Report at 52)

²⁵ *Canada's Black Justice Strategy*, *supra* note 6 at 24-28.

Access to Health and Mental Health Services: The 2021 Senate Committee on Human Rights report on federally sentenced persons indicates that Black and Indigenous individuals often face barriers in accessing adequate healthcare and mental health services prior to incarceration, while inside and upon release.²⁶ Further, the prison environment can negatively impact individuals' mental and physical well-being, worsening the effects of disparities in access to care. The 2021-22 OCI report states that

several Black prisoners complained of racial bias on the part of CSC health care staff because at times, they minimized physical or mental health pain experienced by Black incarcerated persons. Complaints about discrimination in diagnosis and treatment of Black incarcerated persons are indicative of a problem that has been increasingly documented in medicine and psychology in recent years.²⁷

A recent report prepared by Think 2ce based on interviews with Black prisoners in the federal system confirms that Black prisoners experience discriminatory bias and lack access to culturally competent health care in federal prisons.²⁸

Disciplinary Charges: The 2021-22 OCI report indicates that

between 2016-17 and 2020-21, incarcerated Black persons were consistently overrepresented for discretionary charges such as disobeying an order or a rule, disrespect toward a person or staff member and jeopardizing the safety of the institution. Conversely, Black prisoners were underrepresented in categories of charges requiring less discretion and more concrete evidence, such as damaging or destroying property, possession of an unauthorized item and failing a urine test.²⁹

Involuntary Transfers: Overrepresentation of Black prisoners in involuntary transfers is also highlighted by the OCI. The OCI reported in 2021-22 that "Black individuals are consistently overrepresented in involuntary transfers," noting that "in 2020-21, while representing 9.4% of the incarcerated population, Black people represented 14.6% of those involuntarily transferred."³⁰ Involuntary transfers can disrupt familial connections and other support systems, hindering one's ability to effectively navigate the justice and community reentry systems.³¹ Lack of transparency in the transfer process exacerbates concerns about racial bias in the risk-assessment process and other discriminatory practices contributing to over-representation of both Black and Indigenous persons in the highest security correctional facilities.³²

Use of Force: Disproportionate use of force against Black and Indigenous prisoners in policing contexts has been highlighted in recent reports.³³ Similar findings have

²⁶ Senate Standing Committee on Human Rights (2021), *supra* note 15 at 307-317.

²⁷ 2021-22 OCI Report, *supra* note 12 at 63.

²⁸ *Canada black justice system report - Think Twice* (Canada: April 2025) (<https://www.justice.gc.ca/eng/cj-jp/cbjs-scnj/cbjsr-rsjcpn/index.html>). [*Think Twice*], e.g., "Social determinants of justice" / "Enhancing access to mental health services".

²⁹ 2021-22 OCI Report, *supra* note 12 at 58.

³⁰ *Ibid* at 53.

³¹ *Ibid*. See also *Think Twice*, *supra* note 28 ("Maximum Security").

³² *Ibid*. And see Tom Cardoso, "How we did it: How The Globe uncovered systemic bias in prisoners' risk assessments" *Globe and Mail* (Oct 24, 2020).

³³ Joseph Mensah et al, "Racial Discrimination in the Canadian Criminal Justice System: How Anti-Black Racism by the Toronto Police Harms Us All" (2021) 38(2) *Canadian Social Work Review* 63; Parliamentary Standing Committee on Public Safety and National Security, *Systemic Racism in Policing in Canada* (43d Parliament - 1st Session) (Canada: Queen's Printer, June 2021) at 60-64.

been made in the federal prison context. The OCI restated in its 2021-22 report its conclusion following a 2020-21 investigation that “force is disproportionately used against incarcerated Black and Indigenous persons in federal corrections and that race is significantly and uniquely associated with the application of force in federal prisons.”³⁴ Specifically, the OCI found in 2020-21 that “the odds of being involved [in a use of force incident] were 2.5 times greater for an Indigenous or Black individual compared to someone who identified with another racial group.”³⁵ These findings may suggest a lack of proper training and oversight mechanisms for correctional staff when dealing with diverse populations. In any case, overrepresentation of Black and Indigenous individuals in use of force incidents worsens the trauma and distrust already experienced by Indigenous and Black communities and reinforces the systemic inequalities they face within the prison system.

Solitary Confinement: Since the federal government abolished “administrative segregation” (the name previously used in federal law for isolating prisoners on security or safety grounds), patterns of prolonged in-cell isolation continue, including under the new Structured Intervention Units (SIUs).³⁶ Solitary confinement is disproportionately used on Black and Indigenous individuals, as indicated by the OCI and in recent reports of the independent committee reporting on Structured Intervention Units [SIUs]. The 2021-22 OCI report indicated that “Black persons are overrepresented in SIUs, comprising 15% of the SIU population.”³⁷ Moreover, “Black individuals were almost two times more likely than White individuals to experience at least one SIU stay, and were more likely to experience stays of 60 days or more.”³⁸ A recent independent report on SIUs indicated that over 17% of prisoners in the SIU population were Black and that “Black prisoners tend to stay longer in SIUs than others.”³⁹

Prolonged isolation can have severe mental health consequences and worsen existing trauma-related conditions, making it especially harmful when applied to already marginalized groups. The OCI, Senate Human Rights Committee and Advisory Committee on Canada’s Black Justice Strategy have indicated that solitary confinement disproportionately affects Black and Indigenous prisoners.⁴⁰

Conclusion: The federal government has said that it will take action to end systemic anti-Black racism in federal prisons and in wider justice system. Similar commitments have been made over many decades in relation to Indigenous people, who are disproportionately represented throughout the prison system, including at maximum security and in the SIUs, at rates that have only increased in past decades. Recognition of problems is a start but it is no substitute for action.

³⁴ 2021-22 OCI Report, *supra* note 12 at 57.

³⁵ 2020-21 OCI Report at 20.

³⁶ 2021-22 OCI Report, *supra* note 12 at 59.

³⁷ *Ibid.*

³⁸ *Ibid.*

³⁹ *Solitary Confinement and the Structured Intervention Units in Canada’s Penitentiaries: The Final Report of the SIU IAP* (Dec 5, 2024). See also *Structured Intervention Unit Implementation Advisory Panel 2023 to 2024 Annual Report* (July 15, 2024).

⁴⁰ *Canada’s Black Justice Strategy*, *supra* note 6 at 47; 2021-22 OCI Report at 59; Senate Standing Committee on Human Rights (2021), *supra* note 15 at 169-70.



SECTION 03

Systemic Anti-Black Discrimination in Nova Scotia

III. Systemic Anti-Black Discrimination in Nova Scotia

Akwasi Owusu-Bempah & Zilla Jones address the social determinants driving the criminalization and disproportionate incarceration of persons of African descent in Canada. They write:

The social factors that contribute to Black experiences with the CJS can be described as the “determinants of justice” (Institute for Research in Public Policy, 2020). The social determinants of justice include income, employment, stable housing, education, and health (ibid). Where data are available, research demonstrates that Black people in Canada fare poorly across these dimensions, with lower-than-average incomes, higher rates of unemployment, decreased access to secure and stable housing, poorer educational outcomes in Canadian schools, and poorer health and mental health outcomes (Do, 2020; Dion, 2001; Teixeira, 2008; James and Turner, 2017; Robson et al., 2014; Public Health Agency of Canada, 2020). Anti-Black racism and systemic discrimination are often cited as a driver of these negative outcomes (Dryden and Nnorom, 2021; James and Turner, 2017; DasGupta et al, 2020; Public Health Agency, 2020).⁴¹

These findings are borne out in ongoing race discrimination affecting African Nova Scotians, showing up as generations-deep social and economic marginalization.

African Nova Scotians are a distinct people⁴² who share a distinct history of struggle and overcoming.⁴³ We are descended from people of African descent who arrived in Nova Scotia through many pathways, some free and some enslaved. This included three main groups of settlers: “the Loyalists (1783-1785), the Maroons (1796), and the refugees of the War of 1812 (1813-1815).”⁴⁴

There were enslaved people in Nova Scotia from at least the 18th century. As summarized in materials provided by Nova Scotia’s Black Cultural Centre:

Of a total of some 2000 slaves who entered Canada in 1783-4, more than half that number were distributed in the Atlantic Provinces, with Nova Scotia receiving the largest consignment, Annapolis Royal leading with 230 and Digby second with 152.⁴⁵

The Black Cultural Centre’s account continues: “Thirty-five hundred Black people who fled from Southern States during the American Revolutionary War arrived in Canada with the Loyalists.”⁴⁶ Many were runaway slaves whom the British promised “protection, land, and a better life.” However, after settling in places like Shelburne and Birchtown,

⁴¹ *Canada’s Black Justice Strategy*, *supra* note 6 at 24.

⁴² See the United Nations Decade of People of African Descent Report (*United Nations Report of the Working Group of Experts on People of African Descent*, (2017), online: <digitallibrary.un.org/record/1304262?ln=en>: “There has been a long history of resistance and resilience by African Nova Scotians and they have developed a distinct culture, traditions and social and political practices” (at 5).

⁴³ There are many sources which attest to this history, including stories passed down by oral tradition within families and communities.

⁴⁴ See *Beals v. Nova Scotia* (Attorney General), 2020 NSSC 60 at para 22.

⁴⁵ Black Cultural Centre, “Slavery” (<https://bccns.com/our-history/slavery/>) drawing on accounts of H.A.J. Wedderburn (*From Slavery to the Ghetto the Story of the Negro in the Maritimes*, Wedderburn, H.A.J., pg. 1) and Pachai Bridglal (*Beneath the Clouds of the Promised Land-The Survival of Nova Scotia’s Blacks Vol. 1 1600 -1800*) at 33.

⁴⁶ *Ibid.*

Nova Scotia's Black Loyalists "soon realized they had not escaped their harsh, painful life of slavery." For instance, as far back as 1785, "Shelburne was largely known as a place with slave labour and approximately 1,269 'servants.'"⁴⁷ The efforts of Black settlers to resist colonial enslavement became intertwined in important ways with the resistance of the Mi'kmaq people.⁴⁸

1796 saw the arrival in Nova Scotia of over 500 Jamaican Maroons. These were freedom fighters forcibly displaced from Trelawney Town. The Maroons built roads, canals, bridges, and other key infrastructure in Nova Scotia, including part of Citadel Hill. However, inhospitable social and economic conditions plus the cold climate motivated most of the Maroons to leave Nova Scotia for Sierra Leone four years later, in search of freedom and a better life.⁴⁹

Refugees from the War of 1812 arrived in Nova Scotia about a decade on. They, like other people and communities of African Descent, were segregated on the worst infertile land and cut off from public infrastructure.⁵⁰ This introduces another important piece of African Nova Scotian history: denial of land title. Professor Melisa Marsman writes that people of African descent were settled into 52 racially segregated communities in Nova Scotia and "never received legal title to the land on which they were settled."⁵¹ This history is recounted in detail by Justice John Bodurtha in the *Beals* decision.⁵² Justice Bodurtha writes:

[Black] settlers arrived in Nova Scotia under the pretence of offers of generous land grants from the British government. Unlike their white counterparts who typically received at least 100 acres of fertile land, black families were given ten-acre lots of poor-quality land. That land was segregated from the lands given to white families. In addition, while white settlers were given deeds to their land, black settlers were given "tickets of location" and "licenses of occupation". Without legal title to their land, black settlers could not sell or mortgage their property, or legally pass it down to their descendants upon their death. Although a limited number of land titles were eventually issued in Preston, and some settlers were able to purchase land, most black families never attained clear title to their land. Lack of clear title and the segregated nature of their land triggered a cycle of poverty for African Nova Scotian families that persisted for generations.⁵³

The legacy of land title deprivation and other laws and policies perpetuating discrimination, segregation and inter-generational poverty among African Nova Scotians is reflected in 2021 Statistics Canada census data. The 2021 Census also reminds that persons of African descent in Nova Scotia increasingly include newcomers: Nova Scotia's Black population increased by 28.8% between 2016 and 2021, with the largest proportion representing first generation immigrants, mainly from outside Canada.⁵⁴

⁴⁷ *Ibid.*

⁴⁸ See Paula C. Madden, *African Nova Scotian – Mi'kmaq Relations* (Halifax: Fernwood Publishing, 2009).

⁴⁹ See Vernon Ramesar, "How the unbreakable Maroon spirit still inspires African Nova Scotians" (CBC News, Jan 2, 2022) <https://www.cbc.ca/news/canada/nova-scotia/maroon-spirit-african-nova-scotians-1.6290172>.

⁵⁰ *Beals v. Nova Scotia* (Attorney General), 2020 NSSC 60 at para 22.

⁵¹ Melisa Marsman, "Good Deeds? A Critical Race Analysis of the Nova Scotia Land Titles Clarification Act" (2024) 47:2 Dal LJ 620 at 622.

⁵² *Beals v. Nova Scotia* (Attorney General), 2020 NSSC 60.

⁵³ *Ibid.* at para 22.

⁵⁴ *African Nova Scotian Prosperity and Well-Being Index 2024* (African Nova Scotian Road to Economic Prosperity, May 2024) at 11-12. See also *Diversity of the Black population in Canada: An overview* (Ottawa: Statistics Canada, 2019) at 15.

The 2021 Census indicates that Nova Scotians of African descent are twice as likely to be in core housing need than the general Nova Scotian population, and earn on average a lower income, with the after-tax income for Black Nova Scotian males being \$10,120 lower than for non-visible-minority males.⁵⁵

Added to this are findings from the Canadian Centre on Policy Alternatives [CCPA] *2024 Report Card on Child and Family Poverty in Nova Scotia*,⁵⁶ which indicates that 28.9 per cent of racialized children in the province live in poverty while the rate for all Nova Scotian children is 17.2 per cent. Child poverty rates in the historic Black communities are higher still. The 2022 child poverty rate in North Preston was 66.7 per cent and in East Preston was 40.9 per cent.⁵⁷

Segregation and discrimination in the education system is also a longstanding problem.⁵⁸ While high school and post-secondary completion rates are going up, a 2016 study showed that students of African descent are disproportionately placed on Individual Program Plans (IPPs), leading to segregation, exclusion and related barriers to success in and beyond school.⁵⁹ Inequitable access to wealth, education and employment, together with racial bias in Nova Scotia's social and governmental systems, is widely recognized as driving disproportionate rates of child protection interventions in African Nova Scotian and other Black families. Child protection involvement leads to the permanent breakup of families and criminalization of children in "care".⁶⁰ However, no disaggregated data on child protection involvement are collected or shared by government.

The Black Cultural Centre entry on Emancipation states:

Our ancestors were captured like animals, treated as property, separated from their families, and routinely subjected to even more unbearable treatment. Surviving this made us a strong people, empowered to rise above racism. The magnificent contribution that Africans made to society is a legacy we must convey to future generations in all walks of life.⁶¹

These survival skills continue to be needed today, as Nova Scotians of African descent face surveillance and violence from police and other justice system actors and experience separation from family and community in Canada's prison and jails.

⁵⁵ *African Nova Scotian Prosperity and Well-Being Index 2024* (African Nova Scotian Road to Economic Prosperity, May 2024) at 9. See also *Statistics Canada, Census Profile: 2021 Census of Population*, Statistics Canada Catalogue number 98-316-X2021001 (Ottawa: November 15, 2023).

⁵⁶ Lesley Frank, Christine Saulnier, and Ruby Harrington, *2024 Report Card on Child and Family Poverty in Nova Scotia* (Halifax: CCPA, 2024).

⁵⁷ *Ibid.* at 23.

⁵⁸ Barbara-Ann Hamilton-Hinch et al, "A Call for Change in the Public Education System in Nova Scotia" (2021) 44(1) *Canadian Journal of Education* C164-C192. See also Black Learners Advisory Committee (NS), *BLAC Report on Education: redressing inequity, empowering black learners* (Halifax: Black Learners Advisory Committee, 1994); *Report of the BLAC Implementation Review Committee* (Halifax: NS Dept of Education, 2003); Enid Lee, *Reality Check* (Halifax: Enidlee Consultants, 2009); *Individual Program Plan (IPP) Review* (Halifax: NS Dept of Education and Early Childhood Development, 2016) <https://acs.ednet.ns.ca/publications>.

⁵⁹ Barbara-Ann Hamilton-Hinch et al, "A Call for Change in the Public Education System in Nova Scotia" (2021) 44(1) *Canadian Journal of Education* C164-C192.

⁶⁰ Wisdom2Action, *Building an Ecosystem to Realize Children's Rights and Support Family Well Being in Nova Scotia* (May 2023). That report states among its conclusions (at 3):

There is a disproportionate number of Black and Indigenous families in foster care due to discriminatory policies and practices. Racism is undeniably embedded within the structures of the child welfare system. Unless decisive action is taken, this pervasive problem will continue to deprive too many children of their right to a safe environment free from discrimination.

⁶¹ Black Cultural Centre, "Emancipation" (<https://bccns.com/our-history/slavery/>)

To sum up this part, persons of African descent have faced oppression in Nova Scotia for over 400 years. Social and economic oppression has led to intergenerational poverty, ill health, criminalization and incarceration. This vicious cycle is perpetuated through discrimination in education, employment and coercive community services, and worsened further by over-policing. All this leads to overrepresentation of persons of African descent in Canada's prisons and jails – where, given our history of struggle, even one is too many.

African Nova Scotians and other members of the African diaspora have for decades called for reparations.⁶² One piece needed for reparations is truth. That includes information on just how different state systems – the education system, child welfare system, justice system – continue to fail us. This report is a small piece of that search for truth, adding to what we have long known about systemic anti-Black discrimination in Nova Scotia's justice and carceral systems.



SECTION 04

Overrepresentation of People of African Descent and other Chronic Problems in Nova Scotia's Jails

IV. Overrepresentation of People of African Descent and other Chronic Problems in Nova Scotia's Jails

There are four adult provincial correctional facilities in Nova Scotia:

- Central Nova Scotia Correctional Facility (“CNSCF” / “Burnside”) in Dartmouth;
- Northeast Nova Scotia Correctional Facility (“NNSCF” / “Northeast”) in New Glasgow;
- Southwest Nova Scotia Correctional Facility (“SNSCF”) in Yarmouth; and
- Cape Breton Correctional Facility (“CBCF”) in Sydney.

Burnside Jail in Dartmouth has the highest in-custody population, with a maximum capacity of 322 in units designated for men and 48 in the “east unit” designated for women. The other three facilities, designated for men, include Northeast in New Glasgow (maximum capacity 196), Cape Breton in Sydney (maximum capacity 96), and Southwest in Yarmouth (maximum capacity 36).⁶³

Non-binary and trans people face special challenges in Nova Scotia jails. While jail policies indicate that facility placement should reflect a person’s self-identified gender, this is qualified by institutional risk assessments.

Young people under 18 are held at a youth detention centre in Waterville, although youth have sometimes been held in a segregated unit at NNSCF.⁶⁴

Overrepresentation of Persons of African Descent

Each of the four provincial jails (leaving aside the youth facility, not part of our study) holds adults who are:

- serving a sentence of less than two years,
- remanded (i.e., detained pending trial or sentencing), or
- held in some other form of detention (e.g., immigration detention -- recently discontinued in Nova Scotia’s provincial jails), or people in federal custody making court appearances).

In August 2023, Nova Scotia gave one year’s notice it was cancelling its agreement with the federal government to hold immigration detainees in provincial jails. Until then, a small percentage of individuals in Nova Scotia’s jails were in immigration detention. At the time of writing this report, we understand there to be no immigration detainees in Nova Scotia’s jails.⁶⁵

Persons of African descent have been overrepresented in Nova Scotia’s jails since at least 2019 (when provincial corrections began sharing disaggregated data on this issue).⁶⁶ Specifically, those who identify on intake as either “African Nova Scotian”

⁶³ See Nova Scotia Correctional Services, “Adult Correctional Centres” at https://novascotia.ca/just/Corrections/adult_facilities.asp.

⁶⁴ See, e.g., B.P. (Re), 2017 NSPC 47 <https://canlii.ca/t/h66g2>

⁶⁵ Brigitte Bureau, “Nova Scotia 1st province to stop imprisoning migrants” (CBC News) Aug 31, 2023.

⁶⁶ See the annual Nova Scotia Department of Justice, “Corrections – Key Indicators” reports at <https://novascotia.ca/just/corrections/>. These began tracking rates of incarceration by Indigenous or African Nova Scotian / Black race-ethnicity in 2019. See “Corrections in Nova Scotia: Key Indicators, 2019-2020” (March 2021) at 10; “Corrections Key Indicators, 2020-2021”; “Corrections Key Indicators, 2021-2022”;

or “Black (Other)” have since 2019 made up 11-15% of the provincially incarcerated population.⁶⁷ As noted, this amounts to 4-5 times the proportion of persons of African descent in Nova Scotia’s wider population (which is about 3% according to the 2021 census).⁶⁸

Here it must be remembered that over 70% of those held in Nova Scotia’s jails are remanded to custody pre-trial, i.e., they have not been found guilty of the charges against them.⁶⁹ Persons identifying as Black or African Nova Scotian are overrepresented both among the remanded and sentenced populations. For example, in 2020-21, 12% of persons remanded to custody pre-trial and 11% of the much smaller population of persons sentenced to provincial custody in Nova Scotia were Black. In 2022-23 almost 15% of those remanded pre-trial and over 10% of those in sentenced custody were Black. In 2023-24, again almost 15% of those remanded and 9.9% of those in sentenced custody were Black.⁷⁰

Indigenous people are also disproportionately represented in Nova Scotia’s jails — at a rate of about 3 times their presence in the background population; however as noted, overrepresentation of Black individuals is higher still.

Conditions and treatment in provincial jails: background

Individuals incarcerated in Nova Scotia’s jails have raised concerns about conditions and treatment for many years. In August 2018, I was among the leaders of and spokespersons for the Burnside Prisoner Protest. This was a protest addressing prisoner living conditions, held in solidarity with our American brothers and sisters who take this time each year to unite behind the walls. “Black August” is the term that has been coined for this movement in the U.S.

As part of our Black August protest, we at Burnside released a public statement that supporters outside the jail, including Dr. El Jones and ECPJS, shared widely.⁷¹ Our statement expressed respect for our prison-activist forbearers and provided analysis of the root causes of mass incarceration: colonialism, racism and capitalism. We identified ten problems plaguing Nova Scotia’s jails that continue to top the list of concerns reported to ECPJS today.

Number one was lack of access to health care. I and the other Burnside Prisoner Protesters observed:

Many prisoners face serious mental health issues, addictions, and chronic illnesses caused by poverty. We also know the prison environment causes many health problems. Medical treatment is a right: being deprived of health care is not part of

“Corrections Key Indicators, 2022-2023” (January 2024); “Corrections Key Indicators, 2023-2024” (August 2024); “Corrections Key Indicators, 2024-2025” (September 2025).

⁶⁷ *Ibid.* ECPJS has clarified with Nova Scotia’s Justice Statistics unit that the group reported as “African Nova Scotian” in “Corrections – Key Indicators” reports from 2019-2023 actually signified a combination of people identifying as African Nova Scotian and people identifying under the alternative category “Black – Other”.

⁶⁸ Statistics Canada, *Census Profile: 2021 Census of Population*, Statistics Canada Catalogue number 98-316-X2021001 (Ottawa: November 15, 2023).

⁶⁹ *Ibid.*

⁷⁰ See the “Corrections: Key Indicators” reports listed at note 66: online at <https://novascotia.ca/just/corrections/>.

⁷¹ “Peaceful protest at Burnside jail: Conditions must change!” (August 19, 2018) Nova Scotia Advocate: <https://nsadvocate.org/2018/08/19/peaceful-protest-at-burnside-jail-conditions-must-change/>.

our sentences.⁷²

We also described health-related problems we were facing at the time, such as:

having medication cut off or delays in providing necessary medication; long waits for x-rays and other medical services; lack of care for chronic and serious illnesses; access to specialist appointments; having our medical complaints dismissed; not enough medical staff; not receiving compassionate care.⁷³

In the fall of 2018, shortly after we released the Burnside Protest statement, I wrote a news editorial. There I argued that the crisis of prisoner health at Burnside was not just about lack of access to appropriate treatment, it was also about poor jail conditions causing or worsening health problems. At the time, I and others incarcerated at Burnside had not had access to any programming for many months; at the same time, we had been routinely locked down for 23 hours per day.⁷⁴ The same or similar problems continue today, as ECPJS has documented in annual reports since 2020.⁷⁵

Beyond lack of access to health care and prolonged lockdowns, key concerns I and other Burnside protesters raised in 2018 included lack of opportunity to exercise, ill-fitting and weather-inappropriate clothes and shoes, undue restrictions on visits with loved ones, poor quality food, lack of respect for religious dietary needs, and air circulation problems. I summed up our position this way: “We are sentenced to prison as punishment, not for punishment.”⁷⁶

The punishment intended by a custodial sentence is separation from society, period. A criminal sentence is not a license to degrade or mistreat incarcerated people. Nor is an order that one be remanded to custody pre-trial (my status at Burnside, like that of so many others) a license for the state to abuse or deprive a person of the necessities of life. Yet incarcerated people are subjected to intolerable conditions and treatment, including conditions recognized in law as torture,⁷⁷ putting their health and lives at risk every day.⁷⁸ Responsibility for ending these injustices lies with the state. However, the work of pursuing accountability falls mostly to us.

As I have indicated, ECPJS Reports since 2020 have documented the most common prisoner concerns raised in calls to our phone line. These mirror the concerns I and the other Burnside protesters brought forward in 2018. They include lack of responsive health care, prolonged isolation (including through facility-wide lockdowns) and discrimination.⁷⁹ However, until now, we have been unable to explore in any depth a line of complaints raised by callers of African descent since 2020-21, that they are targeted

⁷² *Ibid.*

⁷³ *Ibid.*

⁷⁴ “I’m a Burnside jail inmate, and also a human being. Here’s why you should care about our protest” (CBC News, Sept 4, 2018) <https://www.cbc.ca/news/opinion/burnside-protest-1.4805013>.

⁷⁵ See ECPJS VC Annual Report 2020-21 at 16-20, & 21-35; ECPJS VC Annual Report 2021-22 at 35-48 & 62-63; ECPJS VC Annual Report 2022-23 at 36-43: <https://www.eastcoastprisonjustice.ca/projects.html>.

⁷⁶ “I’m a Burnside jail inmate, and also a human being. Here’s why you should care about our protest” (CBC News, Sept 4, 2018) <https://www.cbc.ca/news/opinion/burnside-protest-1.4805013>

⁷⁷ See *Canadian Civil Liberties Association v Canada* (Attorney General), 2019 ONCA 243; *Francis v. Ontario*, 2021 ONCA 197.

⁷⁸ See ECPJS VC Annual Report 2022-23, *supra* note 11: “Preface: Deaths in Custody and Renewed Resolve” at 3-7; “Call to Action: Coalition Campaign on Death in Custody and Conditions in NS Jails” at <https://www.eastcoastprisonjustice.ca/call-to-action.html>; “Tracking Injustice: A Living Data Set Tracking Canadian Police-Involved Deaths & Deaths in Custody” at <https://trackinginjustice.ca/>.

⁷⁹ See the three ECPJS VC Annual Reports at <https://www.eastcoastprisonjustice.ca/projects.html>.

for the harshest conditions and treatment, and less able to access responsive health care, in Nova Scotia's jails.

ECPJS Access to Information Requests

As I have described, given the patterns of systemic anti-Black discrimination known to be occurring in Canada's federal prisons, I wanted to know what evidence there might be of similar problems in Nova Scotia's jails. That is, beyond the already-inflated baseline of overrepresentation, are persons of African descent also overrepresented among those subject to the harshest conditions and treatment? Guided by the questions other formerly incarcerated persons of African descent and I came up with, my ECPJS colleague Sheila Wildeman and I made a set of Access to Information Requests to Nova Scotia's Department of Justice, Correctional Services Branch [DOJ-NSCS], for disaggregated data, sorted by race-ethnicity, on:

- Uses of force,
- Involuntary transfers,
- Disciplinary charges (we requested separate reports on adjudicated charges versus charges where penalties are immediately served, without subsequent adjudication),⁸⁰ and
- Individualized isolation / segregation ("close confinement").

We made these requests in August of 2023. Soon after, we were advised that DOJ-NSCS does not collect disaggregated data on any of the above matters except "close confinement" (isolation / segregation). I describe the information we ultimately received in what follows. Later, I return to the lack of disaggregated data on the other issues I sought to analyze for this report.

⁸⁰ On this concern see ECPJS VC Annual Report 2021-22, *supra* note 11 at 113-118.



SECTION 05

Prisoner Isolation in Nova Scotia's Jails, 2021 and 2022: Evidence of Systemic Discrimination Against People of African Descent

V. Prisoner Isolation in Nova Scotia's Jails, 2021 and 2022: Evidence of Systemic Discrimination Against People of African Descent

In answer to the ECPJS request for disaggregated data on individualized prisoner isolation in 2021 and 2022 (Dec 31, 2020 – Dec 30, 2022), Nova Scotia's DOJ-NSCS provided over six hundred pages of data, broken down by facility and race-ethnicity. A small but significant subset of race-ethnicity data — associated with 2.4% of sum days in isolation and 3% of reported isolation incidents — was marked "other," meaning either that prisoners self-identified this way or that it was not otherwise possible for administrators to associate the event with race-ethnicity.

We received initial assistance in December 2023 from data analyst Dr. Finlay Maguire of Dalhousie's Faculty of Computer Science. Dr. Maguire made the hundreds of unsearchable pages ECPJS received accessible to electronic searches and undertook preliminary organization and analysis. We are grateful for that assistance, without which we could not have proceeded further. We then contracted the IWK's Nova Scotia Maritime SPOR Support Unit (which supports patient-oriented health research) for further assistance interpreting the data over the spring and summer of 2024.

With this assistance, we were able to pinpoint the information of primary interest. This involved sifting out data relating to COVID-19 and other health-based isolation. As background, in 2021 and 2022, Covid isolation was required of all prisoners upon admission and sometimes at other periods. We set aside this information as well as other instances of isolation said to be justified for medical reasons, so that we could focus on isolation for reasons other than health.

It is worth noting however that Black prisoners made up a very low proportion (under 10%) of those isolated for non-Covid-based *health* reasons. In contrast, Black prisoners made up a higher proportion of those isolated for *security/securitization* reasons. In addition, they were held in isolation longer on average than others, as described below.

Prisoner Isolation – Systemic Patterns

The Freedom of Information requests ECPJS made in the summer of 2023 yielded disaggregated data on prisoner isolation in Nova Scotia jails during the years 2021 and 2022. This included:

- the number of "segregation events," i.e. isolation incidents, by facility,
- the rationale for each instance (institutional security, own request, etc),
- ethnicity of the person isolated, and
- duration (consecutive days) of each instance of isolation.

As noted, we set aside data on Covid-related and other health-based isolation so that we might focus on non-health-based decisions.

1. Frequency of incidents

In the two years for which data was obtained (2021 and 2022), individuals self-identifying as Black, including African Nova Scotian and other African ancestry, were subject to isolation at just above their inflated rate of representation in Nova Scotia's jails. To remind, approximately 3% of Nova Scotia's population is Black; yet in the years

in question (and still), approximately 11-15% of the provincially incarcerated population (both sentenced and remanded) self-identified as African Nova Scotian or Black.⁸¹

We cannot directly compare the population baseline (or even the overrepresentation baseline) against the data on isolation incidents, as they measure different things: discrete individuals (in jail) versus incidents (of isolation) some of which may involve the same individual. Yet, the 11-15% “Black” jail-population baseline for 2021 and 2022 helps give context to the fact that approximately **16%** of isolation incidents across Nova Scotia’s jails in those two years involved persons identified as Black. (Table 1) Moreover, it provides context to the total number of days Black individuals spent in isolation, which amounts to just over **22%** of the total days all provincially incarcerated people were isolated in this two-year period.

Table 1: Frequency, proportion and average duration of time spent in segregation (excluding COVID-19 and medical-related segregation), by ethnicity

Ethnicity	Sum days N (%)	Sum events N (%)	Average days X ± SD	Median days (min, max)
Combined Black	3937 (22.2)	530 (16.1)	7.4 ± 19.8	3 (1, 303)
African Nova Scotian	546 (3.1)	93 (2.8)	5.9 ± 10.5	3 (1, 86)
African Ancestry	3391 (19.1)	437 (13.3)	7.8 ± 21	3 (1, 303)
Indigenous	2594 (14.6)	570 (17.3)	4.6 ± 6.9	3 (1, 84)
Asian	29 (0.2)	7 (0.2)	4.1 ± 1.5	5 (2, 6)
Arab	412 (2.3)	17 (0.5)	24.2 ± 25.2	14 (2, 77)
Caucasian	10323 (58.3)	2067 (62.9)	5.0 ± 6.9	3 (1, 119)
Other	424 (2.4)	97 (3.0)	4.4 ± 4.9	3 (1, 34)
All	17719 (100)	3288 (100)	5.4 ± 10.3	3 (1, 303)

Beyond this, we know that Black individuals were isolated more frequently for reasons reflecting assessments of high risk / security in the two years in question. Specifically, **20.3%** of isolation events based on what NSCS calls its “High Risk Safety Protocol” (which includes dry celling: holding a person in a cell without running water to await excretion of suspected contraband) involved people identified as Black (Table 2). Further, about **21%** of isolation incidents based on facility security involved people identified as Black (Table 3).

⁸¹ See the more precise reporting of these numbers at Section IV of this report, per annual Nova Scotia Department of Justice “Corrections: Key Indicators” reports cited at note 66, online at <https://novascotia.ca/just/corrections/>.

Table 2: Frequency, proportion and average duration of time spent in segregation for High-Risk Safety Protocol, by ethnicity

Ethnicity	Sum days N (%)	Sum events N (%)	Average days X ± SD	Median days (min, max)
Combined Black	52 (12.2)	14 (20.3)	3.7 ± 2.2	3 (1, 9)
African Nova Scotian	-	-	-	-
African Ancestry	52 (12.2)	14 (20.3)	3.7 ± 2.2	3 (1, 9)
Indigenous	48 (11.3)	17 (24.6)	2.8 ± 1.9	2 (1, 7)
Asian	-	-	-	-
Arab	-	-	-	-
Caucasian	325 (76.5)	38 (55.1)	8.6 ± 15.1	3 (1, 74)
Other	-	-	-	-
All	425 (100)	69 (100)	6.2 ± 11.6	3 (1, 74)

Table 3: Frequency, proportion and average duration of time spent in segregation for Security of Correctional Facility, by ethnicity

Ethnicity	Sum days N (%)	Sum events N (%)	Average days X ± SD	Median days (min, max)
Combined Black	933 (25.9)	157 (21.1)	5.9 ± 9.9	4 (1, 86)
African Nova Scotian	145 (4.0)	17 (2.3)	8.5 ± 10.2	3 (1, 86)
African Ancestry	788 (21.9)	140 (18.8)	5.6 ± 7.9	4 (1, 81)
Indigenous	715 (19.9)	161 (21.7)	4.4 ± 5.9	3 (1, 48)
Asian	-	-	-	-
Arab	-	-	-	-
Caucasian	1809 (50.2)	394 (53.0)	4.6 ± 5.7	3 (1, 55)
Other	144 (4.0)	31 (4.2)	4.7 ± 4.6	4 (1, 23)
All	3601 (100)	743 (100)	4.9 ± 6.8	3 (1, 86)

2. Continuous time in segregation

The starkest evidence we found of systemic anti-Black discrimination in relation to isolation in Nova Scotia jails involved the number of continuous days Black prisoners spent in isolation. In 2021 and 2022, Black individuals were held in isolation for the **longest average time** of any ethnic group besides a very small group of individuals identified as Arab (subject to so few isolation events these cannot be factored into the comparison without confounding the analysis). Specifically, Black individuals were held in isolation for an average of **7.4 days** per isolation incident. The next highest average among ethnic groups (beyond the group designated as Arab) was 5 days, which was the average among Caucasian individuals (Table 1).

More striking still is that Black prisoners made up an increasingly high proportion of those held in isolation as the total number of continuous days increased.

To give some context to this finding, ECPJS understands the individualized isolation or “close confinement” used in Nova Scotia’s jails in 2021 and 2022 (the period of this study – and we have reason to believe that similar practices continue today) to have likely met the definition of solitary confinement: 22 hours or more of isolation without meaningful human interaction.⁸² Courts of Appeal in Ontario and BC have held that over 15 days in solitary is unconstitutional, with the Ontario court specifically labelling this “cruel and unusual treatment” contrary to s.12 of the *Charter*.⁸³

In 2021 and 2022, many people of various ethnicities were held in isolation beyond 15 days. Moreover, as the number of days in isolation increased, a growing proportion of those remaining in isolation were Black. Specifically, **in 18% of cases of isolation lasting 16-30 days; 24% of cases lasting 31-50 days; 40% of cases lasting 51-100 days; and 75% of cases lasting over 100 days (3 of 4 instances), the person held in isolation was Black. Indeed, the person isolated for the single longest continuous period in 2021 and 2022 – 303 days continuous – was Black (see Table 4).**

Table 4: Number and proportion of segregation instances between 0-15 days, 16-30 days, 31-50 days, 51-100 days, 101+ days (excluding COVID-19 and medical-related segregation), by ethnicity

Ethnicity	0-15 days N (%)	16-30 days N (%)	31-50 days N (%)	51-100 days N (%)	100+ days N (%)
Combined Black	492 (15.7)	18 (18.2)	9 (23.7)	8 (40.0)	3 (75.0)
African Nova Scotian	87 (2.8)	3 (3.0)	2 (5.3)	1 (5.0)	-
African Ancestry	405 (13.0)	15 (15.2)	7 (18.4)	7 (35.0)	3 (75.0)
Indigenous	548 (17.5)	14 (14.1)	6 (15.8)	2 (10.0)	-
Asian	7 (0.2)	-	-	-	-
Arab	10 (0.3)	-	4 (10.5)	3 (15.0)	-
Caucasian	1976 (63.2)	65 (65.7)	18 (47.4)	7 (35.0)	1 (25.0)
Other	94 (3.0)	2 (2.0)	1 (2.6)	-	-
All	3127 (100)	99 (100)	38 (100)	20 (100)	4 (100)

The category of isolation described by NSCS as “own request” – likely to include situations where officials present no alternatives in the face of intolerable or potentially lethal situations – provides further evidence of disproportionate securitization of Black prisoners. Specifically, the data shared indicates that while a moderate proportion of these instances involved Black prisoners (just over 12%), a very high proportion (almost 36%) of total days in this type of isolation involved Black prisoners, including the case noted lasting 303 days (Table 5).

⁸² See ECPJS VC Annual Report 2021-22, *supra* note 11 at 35-37.

⁸³ *British Columbia Civil Liberties Association v Canada* (Attorney General), 2019 BCCA 228; *Canadian Civil Liberties Association v Canada* (Attorney General), 2019 ONCA 243.

Table 5: Frequency, proportion and average duration of time spent in segregation for Own Request, by ethnicity

Ethnicity	Sum days N (%)	Sum events N (%)	Average days X ± SD	Median days (min, max)
Combined Black	1183 (35.7)	41 (12.4)	28.9 ± 60.2	5 (1, 303)
African Nova Scotian	42 (1.3)	8 (2.4)	5.3 ± 6.4	2 (1, 16)
African Ancestry	1141 (34.4)	33 (10.0)	34.6 ± 65.9	6 (1, 303)
Indigenous	223 (6.7)	33 (10.0)	6.8 ± 15	3 (1, 84)
Asian	-	-	-	-
Arab	247 (7.5)	6 (1.8)	41.2 ± 31.6	48.5 (3, 77)
Caucasian	1616 (48.8)	245 (74.2)	6.6 ± 9.1	3 (1, 76)
Other	44 (1.3)	5 (1.5)	8.8 ± 8.4	5 (1, 21)
All	3313 (100)	330 (100)	10 ± 24.7	3 (1, 303)

Court decisions support our finding that Black prisoners have experienced solitary confinement in Nova Scotia’s jails for inhumanely long periods. For example, in 2020, prior to the period reported on here, a judge found that African Nova Scotians Ra’heem Downey and Andre Gray were held in continuous isolation with just one hour out per day for 201 and 247 days respectively. Their self-represented *habeas corpus* challenge resulted in the judge’s giving correctional authorities two weeks to find other ways to deal with the alleged security concerns they had presented as justification, failing which the judge said he would consider granting the two men bail.⁸⁴

Again, we have set aside 2021-22 data on segregation for COVID-19 and other health reasons in preparing the analysis shared above. However, it bears repeating that non-COVID “medical” segregation was far less likely to be used as the reason for isolating Black prisoners than persons of other ethnicities (Table 6).

This maps onto arguments of critical race scholars that the health concerns (including mental health concerns) of Black individuals are more likely to be classed as behaviour or security problems than health problems.⁸⁵ Such race-securitization is an everyday experience for Black prisoners.⁸⁶

⁸⁴ *Downey and Gray v Attorney General* (Nova Scotia), 2020 NSSC 213 at paras 19-21; and see Blair Rhodes, “Judge orders Burnside jail to end segregation for 2 men awaiting trial” CBC News, Aug 7, 2020; Sheila Wildeman, “Habeas Corpus Unbound” in Colleen M Flood & Paul Daly, eds, *Administrative Law in Context*, 4th ed (Emond, 2021) at 481-82. See also *Williams v. Central Nova Correctional Facility*, 2022 NSSC 159, and ECPJS VC Annual Report 2021-22, *supra* note 11 at 41-42.

⁸⁵ OmiSoore Dryden and Onye Nnorom, “Time to dismantle systemic anti-Black racism in medicine in Canada” (2021) 193(2) CMAJ E55-E57.

⁸⁶ See also the experiences of anti-Black discrimination in prison health care reported by federal prisoners for the April 2025 *Think Twice* report, prepared to inform Canada’s Black Justice Strategy (*supra* note 28).

Table 6: Frequency, proportion and average duration of time spent in segregation for Medical, by ethnicity

Ethnicity	Sum days N (%)	Sum events N (%)	Average days X ± SD	Median days (min, max)
Combined Black	353 (9.5)	39 (8.0)	9.1 ± 14.6	3 (1, 59)
African Nova Scotian	23 (0.6)	5 (1.0)	4.6 ± 4	3 (1, 11)
African Ancestry	330 (8.9)	34 (7.0)	9.7 ± 15.5	3 (1, 59)
Indigenous	473 (12.8)	67 (13.8)	7.1 ± 11.7	3 (1, 67)
Asian	1 (0.03)	1 (0.2)	1	1
Arab	55 (1.5)	8 (1.6)	6.9 ± 11.5	2.5 (1, 35)
Caucasian	2729 (73.7)	361 (47.1)	7.6 ± 15.3	3 (1, 163)
Other	91 (2.5)	11 (2.)	8.3 ± 14.6	2 (1, 51)
All	3702 (100)	487 (100)	7.6 ± 14.7	3 (1, 163)



SECTION 06

Conclusion

VI. Conclusion

The data ECPJS obtained on prisoner isolation in Nova Scotia jails in 2021 and 2022 demonstrates that Black individuals (including persons self-identifying as African Nova Scotian or more generally under correctional category “Black – Other”) were more frequently singled out for isolation than one would expect, even starting from the already-high baseline fact that, then as now, roughly 11-15% of provincial incarcerated people (contrasted with just 3% of Nova Scotia’s population) are Black. Rates of isolation were highest where the rationale related to institutional or personal security. In contrast, Black prisoners were “underrepresented” in use of isolation for medical or health reasons.

Perhaps the most important finding of this investigation is that Black prisoners were subject to the longest periods of prolonged, continuous isolation in 2021 and 2022. **The fact that nearly 25% of isolation cases lasting 31-50 days, 40% of those lasting 51-100 days, and 75% of those lasting over 100 days involved Black prisoners is a telling sign of systemic discrimination.**

It is important to contextualize these findings with attention to changes in provincial corrections already apparent in 2021 and 2022 but even more pronounced today. As multiple court judgments in the past few years have recognized, incarceration in Nova Scotia’s jails has increasingly taken the form of lockdowns: prolonged in-cell isolation across entire units or facilities.⁸⁷ The very idea of “Gen Pop” — a critical mass of incarcerated people whose basic liberties (say, 12 hours out of cell per day) were the baseline against which individual isolation was measured – has become a thing of the past. Instead, ongoing short staffing and liability concerns have given rise to an array of differently described units, each of which employs lockdowns on a routine basis. This includes “rotational lockdowns,” where one or more people are let out of their cells in sequence for a few hours each day.⁸⁸

Callers to the ECPJS phoneline have described the toll perpetual lockdowns have taken on their mental and physical health. They have shared how lockdowns have intensified the frustration, insecurity, desperation and violence already present in the jails.⁸⁹ The results have sometimes been fatal: overdoses and suicides⁹⁰ that cannot be divorced from widespread use of isolation. These conditions also incentivize wrongful convictions, as guilty pleas are entered by individuals desperate to resolve their legal situation to escape the threat that pre-trial incarceration poses to their life and health.⁹¹

While the patterns of isolation of Black prisoners in Nova Scotia’s jails in 2021 and 2022 are striking, it cannot be forgotten that the gross overrepresentation of persons of

⁸⁷ Discussed in ECPJS VC Annual Report, 2022-23, *supra* note 11 at 40-43. See e.g. *Keenan v. Nova Scotia (Attorney General)*, 2023 NSSC 217; *Richards v. Nova Scotia (Attorney General)*, 2023 NSSC 220; *Sempie v. Nova Scotia (Attorney General)*, 2023 NSSC 218; *Downey v. Nova Scotia (Attorney General)*, 2023 NSSC 204; *Diggs v. Nova Scotia (Attorney General)*, 2024 NSSC 11, *rev’d* (but not on the facts) *Nova Scotia (Attorney General) v. Diggs and Wilband*, 2025 NSCA 20.

⁸⁸ See ECPJS VC Annual 2021-2022 report, *supra* note 11 at 43-49; 2022-2023 report at 40-42. See also the findings of the OCI concerning “hidden cells” and unit-wide lockdowns in federal prisons, constituting prolonged solitary confinement: 2021-22 OCI report, *supra* note 12 at 79-81; B.C. Prisoners’ Legal Services, *Solitary by Another Name: The Ongoing Use of Isolation in Canada’s Federal Prisons* (West Coast Prison Justice Society, 2020) at: <https://prisonjustice.org/solitary-by-another-name-report/>.

⁸⁹ See, e.g., ECPJS VC Annual Report 2022-23, *supra* note 11 at 39-43.

⁹⁰ See note 78, *supra*.

⁹¹ See, e.g., Cheryl Marie Webster, “Remanding Justice for the Innocent: Systemic Pressures in Pretrial Detention to Falsely Plead Guilty in Canada” (2022) 3:2 WCLR 128 at: <https://doi.org/10.29173/wclawr74>

African descent in Nova Scotia's jails since at least 2019 (at 4-5 times the background population rate) is itself a profound indicator of systemic discrimination. Reflecting the continued legacies of slavery, persons of African descent in Nova Scotia are disproportionately subject to provincial incarceration and all the harms it brings, including separation from loved ones and community supports, loss of housing and employment, and, as we have documented, in-cell isolation.

In short, the "new normal" of prolonged in-cell isolation described in ECPJS's last three annual reports weighs heaviest on Black and Indigenous individuals and communities whose overrepresentation in the jails has been consistent since at least 2019.

The Need for More Disaggregated Data

In closing, I turn to certain types of disaggregated data that will assist in answering the continuing gaps in knowledge limiting the ability of ECPJS and others to assess and make recommendations aimed at ending systemic anti-Black discrimination in Nova Scotia's provincial jails.

As I have indicated, I began this work with a set of questions submitted as Freedom of Information requests focused on the race-ethnicity of prisoners subject to involuntarily transfers, segregation, use of force, and disciplinary charges. However, NS Corrections officials responded that the Justice information system does not track this information in a way that permits disaggregation based on race-ethnicity at this time.

This limitation in the available data is not the fault of neutral systems but rather of human decision-makers. It is a human failing that the information we need to assess institutional practices for systemic discrimination is not available. Nova Scotia's Justice and Corrections officials must commit to properly tracking and sharing this data, which has been generated and relied on in the federal prison context to press for a long-awaited reckoning with race-discrimination. Without that basis in evidence it is unlikely Canada would have acknowledged the need for either an Indigenous or a Black Justice Strategy aimed at ending disproportionate incarceration and addressing patterns whereby Indigenous and Black individuals are singled out for the harshest conditions and treatment.

There is no excuse for provincial authorities, who are aware of these patterns at the federal level, to fail to collect disaggregated data on the issues our access to information requests singled out. Provincial authorities must start collecting and publicizing the data in question now.

The Need for Comprehensive Action

The growing chorus of reports exposing systemic discrimination against Black and Indigenous individuals in the Canadian prison system underscores the need for comprehensive action reaching to the underlying social injustices producing ongoing colonial and racist violence. Evidence brought forward by the federal correctional investigator and others that involuntary transfers, uses of force, solitary confinement, and disciplinary charges disproportionately affect Black and Indigenous individuals and communities helps shine a light on the myriad ways that prisons perpetuate cycles of injustice and reinforce existing disparities, increasing the pressure for change.

well as Indigenous individuals, must similarly be held accountable and our wider justice and social systems must embrace transformative change in response. Addressing the problems described in this report will require a multi-faceted approach reaching across federal and provincial and Indigenous jurisdictions, and engaging affected communities, to make major law and policy changes informed by a commitment to eliminate racial and colonialist bias at all levels of the justice system. More fundamentally what is required is a massive redistribution of resources and restructuring of social priorities to express equitable support for flourishing rather than ongoing criminalization of Black and Indigenous individuals and communities.

By prioritizing equity and human rights and honouring the expertise of affected individuals and communities, Nova Scotia and Canada can work towards a more just and inclusive society.



EAST COAST PRISON
JUSTICE SOCIETY