



Name of Policy: Racism in the Criminal Justice System

Revised Policy Adoption Date: *SLSC Annual General Meeting, Ottawa, ON, June 3, 2022.*

Mission and Mandate: St. Leonard's Society of Canada is a membership-based, charitable organization dedicated to community safety. The mission of SLSC is to promote a humane and informed justice policy and responsible leadership to foster safe communities. It:

- a. Endorses evidence-based approaches to criminal and social justice;
- b. Conducts research and develops policy;
- c. Supports its member affiliates; and
- d. Advances collaborative relationships and communication among individuals and organizations dedicated to social justice.

Purpose of SLSC Policies: Policies of SLSC are developed in collaboration with affiliate agencies, SLSC's Board of Directors and members, and are ratified at the Annual General Meeting with the express purposes of:

- Identifying criminal justice and related issues relevant to its membership;
- Reflecting SLSC organizational values and social justice goals;
- Articulating SLSC approaches, practices and standards to achieve these goals; and
- Ensuring the good governance of SLSC on matters of legal, administrative and organizational relevance.

Background:

Throughout Canada's history, individuals and communities have faced ongoing racism and discrimination that has actively persisted into the present. Racism contributes to disproportionate, adverse outcomes for certain individuals/groups across various sectors within society, which can have lasting long-term effects on individuals, families, and communities. St. Leonard's Society of Canada (SLSC) recognizes that discourse on race/racism and related definitions are fluid and evolving. While no single definition will meet all needs, for the purposes of this policy, SLSC supports efforts to establish a pan-Canadian understanding of how racism in its various forms can be recognized to focus its antiracism efforts. The Canadian Race Relations Foundation (CRRF) defines racism as "a belief that one group is superior to others performed through any individual action, or institutional practice which treats people differently because of their colour or ethnicity. This distinction is often used to justify discrimination."¹

Within the context of this definition, the CRRF highlights three 'levels' that comprise **systemic racism**:

1. **Individual Racism** *is structured by an ideology (i.e. a set of ideas, values and beliefs) that frames one's negative attitudes towards others; and is reflected in the willful, conscious/unconscious, direct/indirect, or intentional/unintentional words or actions of individuals.*
2. **Institutional Racism** *exists in organizations and institutions where the established rules, policies, and regulations both inform and are informed by the norms, values, and principles of institutions. These in turn, systematically produce differential treatment of, or discriminatory practices towards, various groups based on race. They are enacted by individuals within organizations, who*

because of their socialization, training and allegiance to the organization abide by and enforce these rules, policies, and regulations. Essentially, they maintain a system of social control that favours the dominant groups in society (status quo).

3. **Structural or Societal Racism** *pertains to the ideologies upon which society is structured. These ideologies are inscribed through rules, policies and laws; they represent the ways in which the deep-rooted inequities of society produce differentiation, categorization, and stratification of society's members based on race. Participation in economic, political, social, cultural, judicial, and educational institutions also structure this stratification.*

Individual, institutional and structural racism function together in an interlocking and reciprocal relationship that creates **Systemic Racism**. These three levels of racism operate together in a lockstep model and function together as one whole system.² The criminal justice system is a component within this broader structure and enforces racism through the people and institutions that are working within and alongside it. To address racism meaningfully within and beyond the scope of our organization, SLSC and its members will benefit from understanding how racism impacts people and communities in Canada. This understanding will guide SLSC's antiracism stance to facilitate actions grounded in its mission and values.

Issues/Scope:

Systemic racism is inherent throughout Canadian society. No community is immune to the effects of racism or discrimination. Indigenous land was colonized by European settlers to establish Canada on unceded territory³. Efforts by many subsequent governments at all levels, created the foundation for systemic racism that continues to produce differentiation, categorization, and stratification of society's members based on race. This foundation was set through efforts such as the enforcement of policies and legislation (e.g., the Indian Act,⁴ *Chinese Exclusion Act*⁵), the enslavement and displacement of Black people (e.g., e.g., Africville,⁶ Hogan's Alley⁷)⁸, and other activities that contributed to the marginalization (e.g., denying non-white Canadians the right to vote⁹) and cultural genocide (e.g., residential schools, the '60's scoop', banning the potlatch)¹⁰ of various populations.

As a result of these long-term, harmful efforts, Indigenous Peoples (First Nations, Inuit, and Métis),¹¹ Black people, and other people of colour continue to have disproportionately poor outcomes in the five social determinants of justice as identified in the Institute for Research on Public Policy's 2018 report.¹² These determinants (i.e., income, employment, stable housing, education, and health) are proposed as key factors. When these determinants are not met, they increase an individual's likelihood of engaging in criminalized behaviours and experiencing negative outcomes within the justice system.¹³ The report suggests formally recognizing the social determinants of justice. Doing so would enable a greater understanding of how an individual's surroundings and circumstances can be more meaningfully considered and addressed to develop more equitable interventions and outcomes.¹⁴

Canada's criminal justice system has clear examples of our collective need actively to address racism and discrimination in its various forms. Of specific concern is the continued mass incarceration of Indigenous Peoples and Black people in Canada. Understanding the impact of systemic racism on these criminalized populations requires special considerations to understand better the historical roots of Canadian society that have shaped and maintained a system of social control that favours and maintains the status quo.

The prejudice and bias experienced by Indigenous Peoples in the criminal justice system are well documented in Canada.¹⁵ After decades of steady increases, the number of Indigenous Peoples

incarcerated in Canada reached a historic high in 2020, surpassing 30% of the federal prison population despite making up only 5% of Canada's adult population.¹⁶ Furthermore, almost 50% of federally-sentenced women are Indigenous.¹⁷ Despite government initiatives and increased awareness, the percentage of Indigenous Peoples in federal prisons continues to rise, increasing by 43.4% since 2010.¹⁸

Of similar concern, Black people account for 7.3% of the federal prison population while making up 5% of Canada's adult population.¹⁹ Historical documentation to support this concerning trend was raised in 1994-95, with a principal Canadian study conducted in Ontario on systemic racism.²⁰ Moreover, the OCI's 2011-12 Annual Report identified Black inmates as one of the fastest growing sub-populations in federal corrections.²¹ It highlighted the increasing overrepresentation of this group relative to their proportion within the Canadian population.²²

Research on systemic racism in Canadian corrections regarding Indigenous Peoples and/or Black people reveals that racism impacts people before, during, and after contact with the criminal justice system. This disparity is linked to racist policies, practices, and individual actors across each of the system's stages. When the contact ultimately leads to incarceration, Indigenous Peoples and Black people also have disproportionately poorer outcomes and long-term effects following their incarceration as a result of having been criminalized. Research on these impacts and outcomes have yielded insights regarding Indigenous Peoples and/or Black people in contrast to other groups, such as:

- being subjected to policing and surveillance and, therefore, a corresponding increase in contact with law enforcement (e.g., racial profiling);²³
- poorer outcomes in pre-trial detention proceedings and sentencing (e.g., less frequently granted bail; inconsistent, onerous, and underutilized sentencing principles like Gladue reports and Impact of Race and Culture Assessments; higher number of release conditions);²⁴
- inequitable treatment while incarcerated (e.g., higher risk ratings, higher rates of being subjected to use of force);²⁵
- inequitable decisions related to parole hearings (e.g., serving a higher proportion of sentence before being released; being granted day or full parole at lower rates); and,²⁶
- greater difficulty with re-establishing themselves in the community due to being criminalized (e.g., obtaining employment, housing).²⁷

The evidence to support how Canada's criminal justice system is contributing to the mass incarceration of Indigenous Peoples is significant; and, there is also established evidence detailing the overrepresentation of Black people at various stages of the criminal justice system.²⁸ The OCI²⁹ and the Truth and Reconciliation Commission offer a national scope of action and recommendations aimed at improving the administration of justice in Canada, and reducing the number of Indigenous Peoples and Black people in penitentiaries. Maintaining a national scope serves as a starting point meaningfully to distill evidence into action, and maintains the opportunity for SLSC to evolve with national leaders and experts that are guiding the conversation on racism and criminal justice in Canada.

The disproportionately poorer outcomes for Indigenous Peoples, Black people, and other people of colour in the social determinants of justice, furthermore, make it imperative for SLSC to declare an antiracist position that is grounded in its mission and values. An antiracist stance is one that prioritizes equity among racial groups and acknowledges the impact of historical and present racist and oppressive policies,

practices, and programs.³⁰ To be antiracist it is essential to acknowledge, denounce, disrupt, and dismantle the racist institutions, policies, and practices that prevent equitable treatment of people and communities that experience racism.³¹ In its role as a national, membership-based organization, SLSC can serve as an educational resource for understanding racism in Canada's criminal justice system and for being an antiracist ally to Indigenous, Black, and other people experiencing racism in the criminal justice system and beyond.

Resolutions:

Whereas racism is pervasive within the criminal justice system and society at large; and,

Whereas SLSC's role as a national organization includes being dedicated to promoting humane and informed justice policy and responsible leadership to foster safer communities;

Be it resolved that St. Leonard's Society of Canada shall:

1. Engage in and facilitate access to ongoing educational programming and/or training regarding systemic racism within and beyond Canada's criminal justice system in order to carry out activities in a manner that is informed by an antiracist lens.
2. Strengthen relationships with SLSC's existing partners and create new relationships with other organizations and Indigenous communities with the objective of advancing antiracist policies and practices.
3. Review and educate itself on current and future documents related to individuals and communities that experience racism in relation to the justice system (e.g., Truth and Reconciliation Commission) to determine its capacity to advance the findings and recommendations.
4. Provide feedback on policies, practices, and legislation that incorporate an antiracist lens.
5. Advocate for the implementation of humane and evidence-based recommendations to improve outcomes for federally sentenced people experiencing racism.

Additional Information

SLSC Reports/Publications:

- St. Leonard's Society of Canada. (2018). [SLSC Policy on Community-Based Social Justice](#)
- St. Leonard's Society of Canada. (2017). [SLSC Policy on Human Rights and Non-Discrimination](#)
- St. Leonard's Society of Canada. (2020). [SLSC Policy on Impact of Criminal Records](#)
- St. Leonard's Society of Canada. (2020). [SLSC Policy on Impact of Long-Term Incarceration](#)
- St. Leonard's Society of Canada. (2021). [SLSC Policy on Universal Basic Income](#)

External Reports/Publications:

- Cardoso, T. (2022). *No way out: Once behind bars, racialized people are far less likely to get paroled when they are eligible. Globe analysis examines why.* The Globe and Mail. <https://www.theglobeandmail.com/canada/article-racialized-prisoners-in-canada-get-fewer-chances-at-parole-than-white/>
- National Inquiry into Missing and Murdered Indigenous Women and Girls. (2019). *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous*

Women and Girls, Volume 1a. Privy Council Office.

https://publications.gc.ca/collections/collection_2019/bcp-pco/CP32-163-2-1-2019-eng.pdf

- National Inquiry into Missing and Murdered Indigenous Women and Girls. (2019). *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls, Volume 1b*. Privy Council Office.
https://publications.gc.ca/collections/collection_2019/bcp-pco/CP32-163-2-2-2019-eng.pdf
- National Inquiry into Missing and Murdered Indigenous Women and Girls. (2019). *Reclaiming Power and Place: A Supplementary Report*. Privy Council Office.
https://publications.gc.ca/collections/collection_2019/bcp-pco/CP32-163-2-1-2019-1-eng.pdf
- Statistics Canada. (2022). *Black and Indigenous people's confidence in police and experiences of discrimination in their daily lives*. <https://www150.statcan.gc.ca/n1/daily-quotidien/220216/dq220216e-eng.htm?CMP=mstatcan>
- Turpel-Lafond, M. E. (2020). *Addressing Racism: An independent investigation into Indigenous-specific discrimination in B.C. health care*. <https://engage.gov.bc.ca/addressingracism/>

¹ Canadian Race Relations Foundation. (2015). *CRRF Glossary of Terms*. Retrieved from: <https://www.crrf-fcrr.ca/en/resources/glossary-a-terms-en-gb-1?start=100>

² Canadian Race Relations Foundation. (2015).

³ Truth and Reconciliation Commission of Canada. (2015). *Truth and Reconciliation Commission of Canada: Calls to Action*. Retrieved from https://publications.gc.ca/collections/collection_2015/trc/IR4-8-2015-eng.pdf

⁴ Native Women's Association of Canada. (n.d.) *Indian Act Time Line*. Retrieved from: <https://www.nwac.ca/wp-content/uploads/2018/04/The-Indian-Act-Said-WHAT-pdf-1.pdf>

⁵ McRae, M. (n.d.) *The Chinese head tax and the Chinese Exclusion Act*. The Canadian Museum of Human Rights. Retrieved from: <https://humanrights.ca/story/the-chinese-head-tax-and-the-chinese-exclusion-act>

⁶ McRae, M. (n.d.) *The story of Africville*. The Canadian Museum of Human Rights. Retrieved from: <https://humanrights.ca/story/the-story-of-africville>

⁷ Hogans Alley Society. (n.d.) *What was Hogan's Alley*. Retrieved from: <https://www.hogansalleysociety.org/about-hogans-alley/>

⁸ Zellars, R. (2019). *Rethinking Black Life on Turtle Island. Black Perspectives*. Retrieved from: <https://www.aaihs.org/rethinking-black-life-on-turtle-island/>

⁹ McRae, M. (n.d.) *The Chaotic Story of the Right to Vote in Canada*. The Canadian Museum of Human Rights. Retrieved from: <https://humanrights.ca/story/the-chaotic-story-of-the-right-to-vote-in-canada>

¹⁰ Truth and Reconciliation Commission of Canada. (2015).

¹¹ *Throughout this policy, "Indigenous" refers to Canada's three distinct groups of First Nations, Métis and Inuit Peoples. SLSC respects their unique histories, languages, and cultural/spiritual practices and encourages readers to learn more by viewing the references in the 'Additional Information' section of this policy.*

¹² Institute for Research on Public Policy. (2018). *Rethinking Criminal Justice in Canada*. Retrieved from: <https://irpp.org/research-studies/rethinking-criminal-justice-canada/>

¹³ Institute for Research on Public Policy. (2018).

¹⁴ Institute for Research on Public Policy. (2018).

¹⁵ Iacobucci, F. (2013). *First Nations Representation on Ontario Juries*. Ministry of the Attorney General of Ontario. Retrieved from https://wayback.archive-it.org/16312/20210402055517/http://www.attorneygeneral.jus.gov.on.ca/english/about/pubs/iacobucci/First_Nations_Representation_Ontario_Juries.html; Office of the Correctional Investigator. (2020). *Indigenous People in Federal Custody Surpasses 30%: Correctional Investigator Issues Statement and Challenge* [News release]. Retrieved from <https://www.oci-bec.gc.ca/cnt/comm/press/press20200121-eng.aspx>

¹⁶ Office of the Correctional Investigator. (2020). *Office of the Correctional Investigator Annual Report 2019-2020*. Retrieved from: <https://www.oci-bec.gc.ca/cnt/rpt/annrpt/annrpt20192020-eng.aspx>

Also see: Clark, S. (2019). *Overrepresentation of Indigenous People in the Canadian Criminal Justice System: Causes and Responses*. Department of Justice Canada. Retrieved from: <https://www.justice.gc.ca/eng/rp-pr/jr/oip-cjs/index.html>; and, Institute for Research on Public Policy. (2018).

¹⁷ Office of the Correctional Investigator. (2021). *Proportion of Indigenous Women in Federal Custody Nears 50%: Correctional Investigator Issues Statement* [News release]. Retrieved from <https://www.oci-bec.gc.ca/cnt/comm/press/press20211217-eng.aspx>

¹⁸ Office of the Correctional Investigator. (2020).

¹⁹ Institute for Research on Public Policy (2018), *Rethinking Criminal Justice in Canada*, Round Table Report. Retrieved from <https://irpp.org/wp-content/uploads/2018/10/Rethinking-Criminal-Justice-in-Canada.pdf>; Public Safety Canada. (2020). *2019 Corrections and Conditional Release Statistical Overview*. Retrieved from: <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/ccrso-2019/>

²⁰ Cole, D. P., Ioannou, G. & Gittens, M. (1995). *Report of the Commission on Systemic Racism in the Ontario Criminal Justice System: A Community Summary*. Commission on Systemic Racism in the Ontario Justice System.

²¹ Office of the Correctional Investigator (2012) *Annual Report of the Correctional Investigator 2011-2012*. <https://www.oci-bec.gc.ca/cnt/rpt/pdf/annrpt/annrpt20112012-eng.pdf>

²² Office of the Correctional Investigator. (2012).

²³ Clark, S. (2019); Iacobucci, F. (2013).

²⁴ Clark, S. (2019); Office of the Correctional Investigator. (2015). *Annual Report of the Office of the Correctional Investigator 2014-2015*. Retrieved from <https://www.oci-bec.gc.ca/cnt/rpt/annrpt/annrpt20142015-eng.aspx#s8>

²⁵ Office of the Correctional Investigator. (2015); Public Safety Canada. (2020).

²⁶ Office of the Correctional Investigator. (2012). *Spirit Matters: Aboriginal People and the Corrections and Conditional Release Act*. Retrieved from <https://www.oci-bec.gc.ca/cnt/rpt/pdf/oth-aut/oth-aut20121022-eng.pdf>; Office of the Correctional Investigator. (2020); Public Safety Canada. (2020).

²⁷ Clark, S. (2019); Office of the Correctional Investigator. (2019). *Annual Report of the Office of the Correctional Investigator 2018-2019*. Retrieved from <https://www.oci-bec.gc.ca/cnt/rpt/annrpt/annrpt20182019-eng.aspx#s5>; Public Safety Canada. (2009). *Common Ground: An examination of similarities between black and aboriginal communities*. Retrieved from: <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/cmmn-grnd/index-en.aspx>; Public Safety Canada. (2020).

²⁸ Office of the Correctional Investigator. (2014). *A Case Study of Diversity in Corrections: The Black Inmate Experience in Federal Penitentiaries Final Report*. Retrieved from: <https://www.oci-bec.gc.ca/cnt/rpt/oth-aut/oth-aut20131126-eng.aspx#toc1>

²⁹ Office of the Correctional Investigator. (2014); Office of the Correctional Investigator. (2018). *Office of the Correctional Investigator Annual Report 2017-2018*. Retrieved from: <https://www.oci-bec.gc.ca/cnt/rpt/annrpt/annrpt20172018-eng.aspx#s6>

³⁰ Kendj, I. X. (2019). *How to be an Antiracist*. Random House Publishing Group.

³¹ Kendj, I. X. (2019).