



Parole Board  
of Canada

Commission des libérations  
conditionnelles du Canada

# Moving Towards Diversity, Equity and Inclusion

Working Group on Diversity  
and Systemic Racism Report

*Parole Board of Canada*

June 2022

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## Foreword

As Canadians, we have had recent cause to reflect on the ways in which Canada has unjustly treated Indigenous, Black and other racialized Canadians over the course of its history. In its 2021 Speech from the Throne, the Government renewed its commitment to equity, justice, diversity, and inclusion. It is clear that addressing the systemic discrimination of these groups within Canada's criminal justice system is an essential component to shaping a future that more fully and truly reflects the Canadian ideals that we strive for, both as a federal public service and more broadly as a country.

As a key part of Canada's criminal justice system, the Parole Board of Canada (PBC or the Board) contributes to the protection of society by facilitating, as appropriate, the timely reintegration and sustained rehabilitation of individuals into society as law-abiding citizens. The Board achieves this through independent, quality conditional release, record suspension and expungement decisions, as well as clemency recommendations, in a transparent and accountable manner, while respecting diversity and the rights of all those involved.

The PBC is committed to combatting all forms of racism and discrimination within its workplace. Given the over-representation of Indigenous and Black people at all levels within the criminal justice system, the PBC has taken actions to address systemic barriers within its policies and operations, while also investing in an inclusive and informed workforce.

I am pleased to share the following report developed by the PBC Working Group on Diversity and Systemic Racism. I convened the Working Group to conduct an overarching review in order to examine this issue systematically across all business lines. The results will be used to prioritize and inform the PBC's action plan for advancing diversity, equity and inclusion.

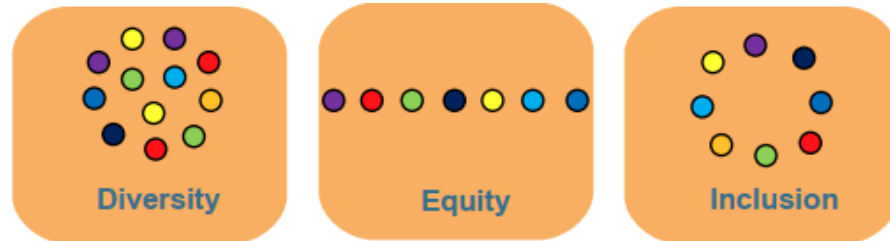
It is important to recognize the vital role of our government and community partners in the development of a comprehensive approach. We thank all the organizations and individuals who shared their time, knowledge, and expertise. The PBC is committed to continuing to work collaboratively with Indigenous, Black, and other racialized communities to meet the needs of oppressed populations, a cornerstone of the broader approach towards reconciliation.

Jennifer Oades  
Chairperson

# Executive Summary

The PBC's Working Group on Diversity and Systemic Racism was tasked with considering issues of diversity in general, with attention to anti-Black racism and Indigenous concerns in particular. This included considerations for the experience of persons sentenced to imprisonment, employee experience, and the larger criminal justice system. In meeting its mandate, the Working Group completed a review of existing reports and studies and conducted broad consultations to understand how the criminal justice system, specifically in the area of conditional release, can be more responsive to the needs of Indigenous, Black, and other racialized people with the goal of improving their outcomes and experience.

The report is categorized into seven themes for action that have been validated and expanded on through the engagement process. Recommendations have been made in each of these areas, which will be used to inform the development of the PBC's action plan for moving towards diversity, equity, and inclusion.



## OVERVIEW OF RECOMMENDATIONS

### Consideration of Systemic and Background Factors in Decision-Making

1. Integrate consideration of systemic and background factors for Black people into decision-making

### Expanding Culturally Appropriate Programs, Interventions and Services

2. Identify options to enhance awareness and responsiveness of Elder-Assisted Hearings and Community-Assisted Hearings
3. Incorporate elements of cultural responsiveness in hearing processes for Black people
4. Formalize a needs-based approach for the use of virtual hearings
5. Update Board member tools to incorporate more information on diversity
6. Examine the use of special conditions to ensure they are facilitating rather than inhibiting conditional release
7. Integrate requirement to consider community alternatives in decision-making for Indigenous peoples
8. Remain supportive of efforts to reform the pardons program to address inequities in the criminal justice system

### Ensuring Staff and Board Members are Representative of the Diversity of the Canadian Population

9. Develop a comprehensive plan for employee engagement and inclusiveness
10. Ensure diversity is represented within the PBC
11. Promote the PBC's commitment to diversity and inclusion and highlight government wide initiatives available to diverse employees

### Providing Cultural Training to Staff and Board Members

12. Increase awareness and understanding of systemic racism and its implications

13. Provide Board members with additional training to enhance their ability to render culturally informed decisions

#### Increasing and Improving Engagement with Communities and Criminal Justice Partners

14. Increase engagement and support within racialized groups
15. Establish a forum to gain insight on matters related to the PBC's mandate in meeting the needs of racialized people

#### Improving and Expanding Data Collection, Research, and Reporting

16. Improve and expand disaggregated data and reporting
17. Make available supplementary and up to date information on the characteristics of individuals who waive, postpone or withdraw consideration for conditional release, including insights into their motivations

#### Enhancing Culturally Appropriate Victim Services

18. Provide Regional Communication Officers with training and tools to ensure consistent and culturally appropriate communication with victims
19. Review victims' involvement when attending Elder-Assisted Hearings and Community-Assisted Hearings

## Background

Indigenous and Black people are over-represented at all levels of the criminal justice system, including in the federal inmate population. Indigenous peoples are also more likely to remain incarcerated longer, with lower rates of conditional release. When they are released, they display lower rates of successful completion than non-Indigenous people<sup>1</sup>. In October 2021, of the federal population on conditional release in the community: 58.6% are Caucasian; 21.1% are Indigenous; and 8.7% are Black.

In light of these systemic inequalities, a joint PBC and Correctional Service of Canada (CSC) Committee on Diversity and Systemic Racism was established in July 2020. As a first step, the Joint Committee:

- Reviewed existing reports and recommendations of relevance to the PBC and CSC's mandates
- Identified what policies and programs were in place to specifically address the unique needs of racialized people
- Reviewed policies and practices aimed at increasing the diversity of PBC and CSC employees
- Identified gaps in both, and
- Made recommendations for potential next steps

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***Black people make up 3.5% of Canada's population but 9.8% of the federally incarcerated population.***

***Indigenous peoples make up 4.9% of Canada's population but 32% of the federally incarcerated population. Indigenous women make up almost 50% of all federally incarcerated women.***

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In reviewing existing reports and studies' recommendations<sup>2</sup> aimed at addressing the over-representation of racialized people in the criminal justice system, the Joint Committee identified seven themes for action that served as the starting point for this report.

### Common Themes for Action

1. Consideration of systemic and background factors in decision-making
2. Expanding culturally appropriate programs, interventions and services
3. Ensuring staff and Board members are representative of the diversity of the Canadian population
4. Providing cultural training to staff and Board members
5. Increasing and improving engagement with communities and criminal justice partners
6. Improving and expanding data collection, research and reporting
7. Enhancing culturally appropriate victims services

In May 2021, the PBC established an internal Working Group on Diversity and Systemic Racism to provide advice to the Chairperson on issues of diversity in general, with attention to anti-Black racism and Indigenous concerns in particular. The following report provides a summary of the Working Group's review and consultation to validate and expand on the themes for action. Formal recommendations are provided to address systemic racism within the conditional release context and ensure that a framework is in place to track progress going forward.

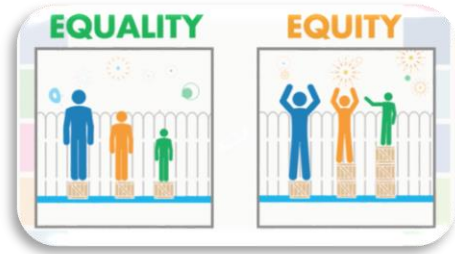
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<sup>1</sup> Correctional Service Canada (2021). *Research in Brief- Federal Recidivism Rates: 2011-12 to 2020-21*.

<sup>2</sup> An overview of existing reports and studies reviewed is found in [Annex A](#).

## Context

In this report, the term “racialized” is used to refer to a person or group of people categorized according to ethnic or racial characteristics and subjected to discrimination on that basis<sup>3</sup>. The use of the term “racialized” acknowledges that race is a social construct that negatively impacts a person’s social, political



and economic life. Understanding the history of repressed racialized groups in the context of colonialism is an important first step in addressing inequality. Underlying social and economic factors contribute to criminalization and it is important to address systemic inequality in all areas of society in order to make meaningful change towards substantive equity. Substantive equity refers to the achievement of true equality in outcomes. It is achieved through equal access, equal

opportunity, and, most importantly, the provision of services and benefits in a manner and according to standards that meet unique needs and circumstances. It is required in order to address historical disadvantages, intergenerational trauma, and systemic discrimination and racism.

While legislation refers to “offenders”, this report has chosen to avoid that terminology where possible to acknowledge that it further stigmatizes those who are incarcerated, and to focus its language on persons sentenced to imprisonment or incarcerated persons. Further references to “person”, “individual” or “people” are also used throughout.

## Indigenous Peoples in Canada

The Government of Canada recognizes First Nations, Inuit, and Métis as the Indigenous peoples of Canada. The criminalization of Indigenous peoples in Canada has been extensively studied. It is widely agreed upon that this criminalization is perpetuated as a result of underlying factors and historical circumstances in combination with ongoing dislocation and cultural dispossession.

Residential schools in Canada, guided by the policy of forced assimilation, along with the sixties scoop of Indigenous children into foster care, have resulted in cultural genocide and multi-generational trauma. As a result, the challenges in addressing violence and crime are complex due to intersecting, socio-economic problems compounded by a lasting colonial legacy.

Socio-economic disadvantages faced by Indigenous peoples include:

- unresolved trauma and abuse, including higher rates of childhood physical and sexual violence;
- over-representation in foster care;
- limited educational opportunities and labour market outcomes;

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***“For over a century, the central goals of Canada’s [Indigenous] policy were to eliminate [Indigenous] governments; ignore [Indigenous] rights; terminate the Treaties; and, through a process of assimilation, cause [Indigenous] peoples to cease to exist as distinct legal, social, cultural, religious, and racial entities in Canada. The establishment and operation of residential schools were a central element of this policy, which can best be described as ‘cultural genocide’”***

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Truth and Reconciliation Commission of  
Canada, 2015

<sup>3</sup> Government of Canada [Guide on Equity, Diversity and Inclusion Terminology](#).

- higher rates of unemployment, low-income status, and limited housing;
- increased rates of illness, disability, mental health disorders, substance abuse, self-harm and suicide; and
- geographic isolation and lack of access to information and services.<sup>4</sup>

Indigenous peoples are both the youngest and fastest growing population in Canada<sup>5</sup> and have higher rates of victimization. The rate of violent victimization among Indigenous peoples is more than double that among non-Indigenous people<sup>6</sup> and the rate of homicide is seven times higher<sup>7</sup>. Violent crime across the Canadian Arctic is the highest in the country at 11 times the national rate<sup>8</sup>.

## Black People in Canada

There is increasing understanding that the over-representation of Black people at all levels of the criminal justice system in Canada is related to ongoing marginalization and systemic racism. Canada has a history of enslavement and racial segregation which continues to have an impact on Black people and communities. Slavery existed in Canada from the 16<sup>th</sup> century until its abolition in 1834. After slavery was abolished, segregation still existed in specific laws and practices in the areas of education, residential accommodation, employment, and economic opportunities<sup>9</sup>. These practices coupled with stigma and racial stereotypes led to systemic oppression, marginalization, and disenfranchisement that is so deeply entrenched in Canadian society that it is functionally normalized.

Black communities have diverse histories in Canada. One example is Black settlers who were promised freedom and land in Nova Scotia following the American Revolution. Upon arrival, Black people faced racism from white settlers and were pushed onto inhospitable land with no municipal amenities, known as Africville. In the 1960s, Africville was destroyed to make way for industrial development and its residents were displaced without meaningful consultation<sup>10</sup>. The loss of Africville, along with the corresponding denial of property ownership and community fragmentation, have resulted in a loss of cohesive cultural and spiritual identity.

Ontario and the Prairies are home to many Black Canadians descended from Caribbean immigrants, including a large number of professionals recruited between the mid-1950s and early 1970s to fill the post-war demand for teachers and nurses, and a smaller group of domestic workers immigrating in the same time period. The vast majority of Black Canadians live in major metropolitan areas (94.5%)<sup>11</sup>, compared to 71% of all Canadians. Toronto is home to a large population of Black Canadians, primarily of Jamaican descent, who have faced the challenges of urban marginalization, including underemployment, housing discrimination, ghettoization, and adversarial relationships with the criminal justice system emerging from its history as the enforcement tool for discriminatory legislation. Their experience has many parallels to that of a substantial Black community in Montreal, largely of Haitian and North African

<sup>4</sup> Pauktuutit Inuit Women of Canada (2018). [Brief Submitted to the House of Commons Standing Committee on the Status of Women](#); Indigenous Services Canada (2021). [Reducing the Number of Indigenous Children in Care](#); Organisation for Economic Cooperation and Development (2020). [Profile of Indigenous Canada: Trends and Data Needs](#); Statistics Canada (2016). [Census](#); Boyce, J., C. Rotenberg and M. Karam. 2015. [Mental health and contact with police in Canada, 2012](#).

<sup>5</sup> Statistics Canada (2018). [First Nations People, Métis and Inuit in Canada: Diverse and Growing Populations](#)

<sup>6</sup> Statistics Canada (2021). [Criminal Victimization in Canada](#)

<sup>7</sup> Statistics Canada (2020). [Police-Reported Crime Statistics in Canada, 2019](#)

<sup>8</sup> Pauktuutit Inuit Women of Canada (2018). [Brief Submitted to the House of Commons Standing Committee on the Status of Women](#)

<sup>9</sup> United Nations Human Rights Council (2017). [Report of the Working Group of Experts on People of African Descent on its mission to Canada](#)

<sup>10</sup> Canadian Museum for Human Rights (accessed 2021). [The Story of Africville](#)

<sup>11</sup> Statistics Canada (2019). [Diversity of the Black Population in Canada](#)



descent. That community has grown through waves of immigration in the 1990s and 2000s, the majority settling in Montreal, with smaller populations in other large metro areas in Quebec.

Today, Black Canadians experience intergenerational trauma and social inequities linked to discrimination at the individual, interpersonal, institutional, and societal level. Black people continue to experience:

- higher unemployment;
- disrupted cultural patterns of substance use and recruitment into criminality;
- poverty and income inequality; and
- unequal access to housing and healthcare.<sup>12</sup>

Discriminatory practices have been found in relations with police and court services, the correctional system, the immigration system, the child welfare system, and the education system<sup>13</sup>. Black Canadians are also 4.3 times more likely to be victims of homicide in Canada and have reported low levels of confidence in the criminal justice system<sup>14</sup>.

It is important to acknowledge that the experiences of Black Canadians may look different across Black communities. Black communities in Canada are increasingly diverse, with Black immigrants coming from approximately 125 different countries with more than 200 ethnic or cultural origins reported<sup>15</sup>. Although inequities are reported as a whole, the experiences of Black people may look very different based on their own histories and intersectionality.

## Methodology

A number of recent studies and reports have addressed the issue of over-representation of Black and Indigenous people in the criminal justice system. A review of existing reports, outlined in [Annex A](#), was conducted to identify themes for action and recommendations that fall within the mandate of the PBC.

A community engagement approach was undertaken to validate and expand on the identified themes for action. A questionnaire was developed, along with a consultation guide to support individuals in providing meaningful feedback. A copy of the consultation guide, which includes the list of questions provided within the questionnaire, is available in [Annex B](#). The questionnaire was strategically designed to fill in gaps and identify practices for addressing issues facing Indigenous, Black and other racialized people to assist in the development of recommendations and a concrete action plan. The online questionnaire opened on November 22, 2021 and closed on January 7, 2022. A summary of the questionnaire responses is available in [Annex C](#).

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<sup>12</sup> Statistics Canada (2021). [Changes in the Socioeconomic Situation of Canada's Black Population, 2001 to 2016](#); Wright (2020). *Offenders of African Descent: Foundational Knowledge and Application*, Annual Training on Risk Assessment, Parole Board of Canada; Block, Galabuzi and Tranjan (2019). *Canada's Colour Coded Income Inequality*, Centre for Policy Alternatives; Public Health Agency of Canada (2020). [Social Determinants and Inequities in Health for Black Canadians](#).

<sup>13</sup> Maynard (2018). *Policing Black Lives: State Violence in Canada from Slavery to the Present*, Fernwood Publishing; Office of the Correctional Investigator (2013). [A Case Study of Diversity in Corrections: The Black Inmate Experience in Federal Penitentiaries](#); Statistics Canada (2019). [Diversity of the Black Population in Canada: An Overview](#); Kikulwe (2016). *Racialization, Silences and the Negotiation of Power Within Child Welfare Institutions in Ontario*, Canadian Ethnic Studies, Vol. 48, no. 3.; James and Turner (2017). *Towards Race Equity in Education: The Schooling of Black Students in the Greater Toronto Area*, York University.

<sup>14</sup> Statistics Canada (2020). [Police-Reported Crime Statistics in Canada, 2019](#); Statistics Canada (2020). [Public Perceptions of the Police in Canada's Provinces, 2019](#)

<sup>15</sup> Statistics Canada (2019). [Diversity of the Black Population in Canada: An Overview](#)

In addition to feedback received by way of the questionnaire, the PBC held additional consultation sessions with external advisory groups, namely the PBC Committee on Victims and the Chairperson's Indigenous Circle.

## Who We Heard From

The questionnaire was provided to various national and regional level organizations, individuals, and academics with expertise in the area of criminal justice and/or diversity. The questionnaire was also provided to all PBC Elders/Cultural Advisors and to CSC's National Ethnocultural Advisory Committee and National Indigenous Advisory Committee.

Although it is not possible to determine the exact number of individuals who received the questionnaire as a result of indirect access, the response rate based on those who received the questionnaire directly is approximately 25%. The average time spent completing the questionnaire was approximately 30 minutes and completion rate was 100%. In order to receive candid feedback, questionnaire responses are anonymous and results are reported as a whole and not linked to any one individual or organization. Results identified throughout the report indicate the percentage of total respondents who identified a factor in their response.

## An Intersectional Approach

An intersectional approach was adopted for the purposes of the engagement process and the analysis of results. Intersectionality is a research and policy model that recognizes the complex composition of factors that shape and influence lives. This approach is important when considering inequities faced by Indigenous, Black, and other racialized individuals who, in addition to discrimination on the basis of race, experience the impacts of colonialism, ableism, ageism, sexism, sexual orientation, among other exclusion factors<sup>16</sup>. These intersecting systems of oppression compound systemic barriers in accessing programs or services to address needs.



In an intersectional approach, each of the above-mentioned factors are treated separately, but are considered together to recognize that an individual's experiences are based on multiple overlapping identities and contextual considerations. This approach is the foundation behind a Gender-Based Analysis Plus (GBA+) assessment<sup>17</sup>. GBA+ is an analytical process for assessing systemic inequality and how diverse

groups of people may experience policies, programs and initiatives in an effort to reduce inequality and barriers faced by specific groups<sup>18</sup>. The goal of an intersectional approach is to achieve substantive equity.

<sup>16</sup> Women and Gender Equality Canada (accessed 2022). [Introduction to GBA+](#)

<sup>17</sup> The "plus" in GBA+ acknowledges that GBA goes beyond biological (sex) and socio-cultural (gender) differences and considers many other factors, such as race, ethnicity, religion, age, and mental or physical disability.

<sup>18</sup> Women and Gender Equality Canada (accessed 2021). [About Gender-Based Analysis Plus](#)

Also incorporated within an intersectional approach, is consideration of social determinants of health. This lens focuses on causal relationships between health outcomes and social and economic factors. Experiences of discrimination, racism and historical trauma are important social determinants of health for certain groups such as Indigenous peoples and Black Canadians<sup>19</sup>.

Intersectional considerations for diverse groups must acknowledge the impact of the beliefs held by the individual's own cultural community concerning other characteristics that increase their experience of discrimination. Such attitudes may vary widely across cultures. For example, non-heterosexuality or non-binary gender is embraced by many Indigenous traditions, but is rejected by some Black sub-groups given their historical experiences. The individual's own culture may amplify their experience of discrimination within their own communities. In essence, membership in multiple groups may result in exclusion or alienation from all groups. This may inspire self-hatred, and result in withdrawal of social support from within their own communities, in addition to their increased experiences of discrimination in society as a whole.

## A Trauma-Informed Approach

A trauma-informed approach was also incorporated into the engagement process and the analysis of results. This approach incorporates knowledge of trauma into all policies, procedures, and practices as an important means of recognizing and responding appropriately to the impacts and signs of trauma. Research on trauma-informed principles was conducted and built into the development of the questionnaire. These principles are also highlighted in the development of the consultation guide, which provided a clear overview and purpose, the ability for participants to control time and flow of the questionnaire and take breaks as required, and unlimited space in open ended question boxes.

## Results

### Consideration of Systemic and Background Factors in Decision-Making

#### Current Activities

In reviewing cases for conditional release, Board members use a structured decision-making framework to meet the diverse and complex needs of the incarcerated population, while ensuring the highest standard of public safety. The decision-making framework considers factors such as: criminal, social, and conditional release history; factors affecting self-control; responsivity to programming and interventions; institutional and community behaviour; demonstrated change in risk related behaviour; the release plan and community supervision strategies; and case specific factors.

The cumulative circumstances and disadvantages faced by Indigenous peoples are often referred to in the context of "Indigenous social history". Indigenous social history was considered in the 1999 Supreme Court of Canada case of *R. v. Gladue* where the Court held that alternatives to incarceration and the unique circumstances of Indigenous peoples must be considered during sentencing. The requirement to consider Indigenous social history was extended to all decision-makers in the criminal justice system in *R.*

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<sup>19</sup> Public Health Agency of Canada (2020). [Social determinants and inequities in health for Black Canadians: A Snapshot](#)

*v. Sims*<sup>20</sup> and to the PBC in *Twins v. Canada*<sup>21</sup>. In June 2019, former Bill C-83 enshrined into the *Corrections and Conditional Release Act* (CCRA) consideration of systemic and background factors in CSC decision-making involving Indigenous individuals. It was further clarified that these factors are not to be taken into consideration for decisions respecting the assessment of the risk posed by an Indigenous person unless those factors could decrease the level of risk.

Principles of the *Gladue* decision are directly incorporated into the *PBC Decision-Making Policy Manual for Board Members* (Policy Manual). In 2017, the Policy Manual was revised to more fully incorporate the consideration of systemic and background factors. Board members are reminded to consider systemic and background factors in their decision-making and to demonstrate consideration of those factors in their reasons for decision. Systemic and background factors are to be considered separately, but also in relation to risk factors. Unlike risk factors, systemic and background factors will not lead to aggravated risk; instead, the context they provide may serve to explain and mitigate elements of risk. Systemic and background factors are used to understand the individual's social history, their trauma, their family and community background.

## Challenges and Recommendations

Existing recommendations, literature, and the results of the questionnaire highlighted the importance of considering the unique and differing needs and risks of Black people in decision-making<sup>22</sup>. This was also recently highlighted in the 2021 Nova Scotia Court of Appeal decision in *R. v. Anderson* where an Impact of Race and Culture Assessment (IRCA) was used to inform the sentencing judge. IRCAs are pre-sentencing reports that include information about the history of anti-Black racism and discrimination and its effects to ensure that relevant factors are considered when determining appropriate sentencing. Specifically, the court considered the history of slavery, forced migration, lawful segregation in schooling and public life, and the denial of property ownerships. The court found that proper attention must be provided to the person's circumstances and deeply entrenched historical disadvantage and systemic racism.

Another recent case, *R. v. Morris*<sup>23</sup>, agreed that anti-Black racism is a real phenomenon in Canadian society and relied on *Gladue*-type reports to gain an understanding of the existence and effect of anti-Black racism in relation to the case. Anti-Black racism is so fundamental to Canadian society that sentencing judges can take judicial notice without the need for evidence. As such, factors related to anti-Black racism can be accepted as fact in court. This includes factors such as the following: the history of colonialism, slavery, policies and practices of segregation, and intergenerational trauma.

Courts have recognized that, while the history of Indigenous peoples in Canada is distinct, as is their place in the legal and constitutional framework, Black Canadians have experienced many of the same effects of discrimination and marginalization<sup>24</sup>. The Supreme Court of Canada stated in the *Ipeelee* decision that "there is nothing in the *Gladue* decision which would indicate that background and systemic factors should also not be taken into account for other, non-Aboriginal offenders"<sup>25</sup>. These experiences can be

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<sup>20</sup> *R. v. Sims*, 2005 ONCA

<sup>21</sup> *Twins v. Canada (Attorney General)*, 2015 FC

<sup>22</sup> [Ha-Redeye \(2016\) Gladue-Type Sentencing Needed for Blacks in Canada, Justice Issues](#)

<sup>23</sup> *R. v. Morris*, 2021 ONCA

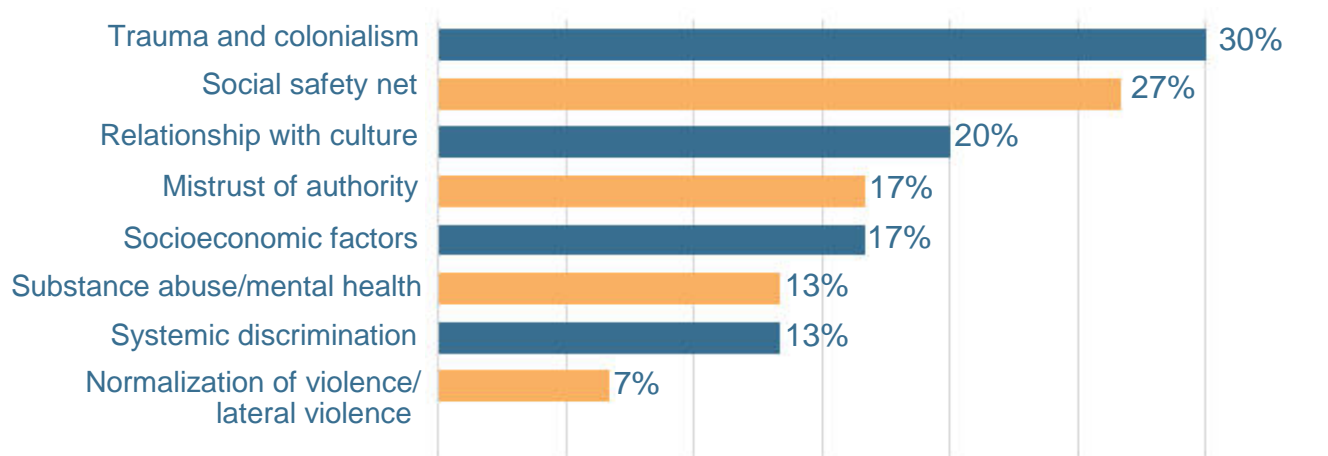
<sup>24</sup> *R. v. Anderson*, 2021 NSCA

<sup>25</sup> *R. v. Ipeelee*, 2012 SCC 13 at para. 77.

considered, however the *Gladue* sentencing principle pursuant to paragraph 718.2(e) of the *Criminal Code* outlines that particular attention must be given to the circumstances of Indigenous peoples. This provision is specific to Indigenous peoples as a result of myriad factors, including systemic racism and disadvantage coupled with recognition that the current justice system is not reflective of traditional Indigenous conceptions of justice<sup>26</sup>. The principle is not applied to make up for historical mistreatment, but because imprisonment is less effective when the individual is Indigenous. Imposition of community alternatives is a more culturally relevant approach for Indigenous peoples, with restorative and community based approaches grounded in Indigenous justice and self-governance<sup>27</sup>.

Despite not being required to apply paragraph 718.2(e) of the *Criminal Code* directly to Black people, courts have been increasingly willing to consider anti-Black racism, systemic and background factors in the context of the offence committed during sentencing. Recently, Board members in the Ontario region completed a training session on considering Black social history in decision-making, as part of a CSC pilot to integrate this information within case management documents. Consideration of the discrimination and marginalization of Black people, and how these experiences are related to the commission of the offences, is the essence of equity and an intersectional approach to decision-making.

Results below identify the percentage of total questionnaire respondents who identified the following cultural/social history factors to be considered in decision-making for Indigenous, Black, and other racialized individuals.



One element highlighted within the responses is the importance of considering the social safety net broadly. Taking only family safety nets or supports into account often excludes people from communities that do not accept the broader choices made by the person sentenced to imprisonment. Mistrust of authority can be understood in part as a consequence of the larger trauma and colonialism factor, which has contributed to the historical and problematic relationship experienced by Indigenous and Black people with policing and the criminal justice system. Consideration of the normalization of violence and lateral violence in racialized communities highlights the importance of healing both the person sentenced to imprisonment and the community in order to disrupt legacy/revenge crime.

<sup>26</sup> Mann (2005) *Mitigating Sentencing: Aboriginal Sentencing Principles in a non-Aboriginal Context*

<sup>27</sup> *R. v. Border*, 2003 ONCA

## RECOMMENDATION

### 1. Integrate consideration of systemic and background factors for Black people into decision-making

#### Expanding Culturally Appropriate Programs, Interventions and Services

***“It is important to recognize the broader structural and contextual factors, including systemic inequalities, which affect reintegration and rehabilitative processes. In this sense, ‘success’ and ‘failure’ should be understood systemically, not individually.”***

Questionnaire Respondent

The PBC has a legislative requirement under subsection 151(3) of the CCRA for its policies to respect gender, ethnic, cultural and linguistic differences and be responsive to the special needs of women and Indigenous peoples, as well as to the needs of other groups of people with special requirements. Substantive equity can only be achieved when programs and services meet unique needs and circumstances, such as cultural, social, economic and historical disadvantage.

Questionnaire results identified the following three main factors in the successful reintegration and rehabilitation of Indigenous, Black, and other racialized people:



The above results should be considered broadly when developing culturally appropriate programs, interventions, and services. The primary consideration in moving forward is community involvement, in both design and delivery of programs and services. Although involvement of the community is a best practice, it should not be considered a requirement for release<sup>28</sup>. Community involvement may be impacted by lack of community capacity in terms of employment, housing, programs, and social services<sup>29</sup>. Resources, such as Elders and Cultural Advisors, can provide valuable support and assist in making direct links with communities. Elders and Cultural Advisors can also educate persons sentenced to imprisonment on options to connect with their identities and spirituality, including participation in ceremony/religion, transfer to healing lodges, and participation in culturally responsive hearings. Pre-release discharge planning, a continuum of care, and wrap around services that are ideally peer-led were highlighted as important factors in ensuring that adequate resources are in place to support reintegration.

<sup>28</sup> McGuire and Murdoch (2021) *(In)-justice: An Exploration of the Dehumanization, Victimization, Criminalization, and Over-Incarceration of Indigenous Women in Canada*, Punishment and Society

<sup>29</sup> Cesaroni et al. (2019) *Overrepresentation of Indigenous Youth in Canada's Criminal Justice System: Perspective of Indigenous Young People*, Australian and New Zealand Journal of Criminology, Vol.52, no.1.

## CULTURALLY RESPONSIVE HEARINGS

### Current Activities

The PBC is committed to offering culturally responsive hearings to Indigenous individuals and non-Indigenous individuals committed to an Indigenous way of life. The PBC has been contracting the services of Elders and Cultural Advisors at hearings since 1992 to provide alternate models of conditional release hearings, namely Elder-Assisted Hearings (EAH) and Community-Assisted Hearings (CAH). The process adheres to the same established criteria and rigor for decision-making as with all hearings. The Elder or Cultural Advisor may be an active participant in the hearing and ask about the person sentenced to imprisonment's understanding of Indigenous traditions and spirituality, progress towards healing and rehabilitation, and readiness of the community to receive the person if return to the community is part of the release plan. The information that Elders and Cultural Advisors provide facilitate a more accurate understanding of the person for Board members and assists in understanding the systemic or background factors that may have contributed to their involvement in the criminal justice system.

EAHs and CAHs are typically arranged with an inner and outer circle and may include cultural protocols and ceremonies if requested (e.g., saying a prayer and facilitating a smudge ceremony).

CAHs involve the application of section 84 of the CCRA and allow the participation of members of the Indigenous community where the person's release is being proposed. CAHs offer Board members an understanding of who the person is as an individual in their community.

The PBC has regularly reviewed its management of EAHs with reviews conducted in 2000, 2004, 2006, 2011 and 2019. The outcomes from the most recent review (2019) indicated the need to clarify the role of Elders and Cultural Advisors, and to increase in-reach and awareness activities to further expand use of EAHs.

Over recent years prior to the COVID-19 pandemic, the number of EAHs had been increasing steadily. In 2019-2020, the PBC conducted 743 EAHs, an increase from 720 in 2018-2019 and 681 in 2017-2018. The number of CAHs had also increased. In 2019-2020, the PBC conducted eight CAHs, an increase from four each in both 2018-2019 and 2017-2018. During the COVID-19 pandemic, as a result of travel restrictions and limited access to CSC institutions, PBC hearings are being primarily conducted by videoconference, although in-person EAHs and CAHs may be conducted where possible. In cases where it is not possible to conduct an in-person EAH or CAH, a culturally adapted hearing or culturally adapted virtual hearing with community participation may be offered. As a result of these restrictions, EAH and CAH numbers have declined starting in fiscal year 2020-21.

The PBC recognizes that remote participation does not incorporate all elements of an EAH or CAH, but it adapts the virtual process to include the following:

- PBC Elder/Cultural Advisor is available to participate by videoconference/teleconference;
- PBC Elder/Cultural Advisor is available to conduct some ceremonial aspects (for example, an opening and closing prayer). Persons sentenced to imprisonment may wish to conduct a smudge alongside a CSC Elder or Indigenous Cultural Advisor in advance;

- PBC Elder/Cultural Advisor is available to answer questions about the cultural and traditions of the Indigenous community, asking questions about the person’s understanding of Indigenous traditions and spirituality, progress towards healing and rehabilitation, and readiness of the community to receive the person if return to the community is part of the release plan.

## Challenges and Recommendations

The questionnaire results provided the following recommendations to improve hearing responsivity:

**Facilitate family and/or community participation at the hearing. When possible, hold the hearing locally in the community.**

Recommendations supported the continued use of circle hearings and the use of a restorative lens where possible. If hearings are not able to be held in the community, increased use of healing lodges or less institutional environments is recommended. Rather than hearings within communities being the exception, barriers should be reduced so that hearings within the community are the norm. Involvement of the community can contribute important information for the Board member in terms of the community’s readiness to receive the person and resources in place to support the person’s release. Community participation and reconciliation is critical for culturally competent healing and reintegration. This is particularly important given that racialized victims often have relational ties with the person sentenced to imprisonment.

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***“Focus on the offender moving forward from the trauma and making amends to themselves, their families, their communities, and their nations.”***

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Questionnaire Respondent

Prior to the COVID-19 pandemic, a portion of PBC hearings were being conducted by videoconference. As stated above, hearings are currently being held primarily by videoconference as a result of the COVID-19 pandemic. As we move towards a new normal, a needs-based approach to the use of virtual hearings should be taken, to ensure that individuals with cultural needs continue to be prioritized for an in-person hearing. Needs-based and person-centered approaches are required to ensure that practices are responsive to the needs of different individuals.

**Offer cultural supports at hearings, including Elders/Cultural Advisors for Indigenous peoples and Cultural Advisors for Black people. Clarify that this support does not limit the person from having an assistant at the hearing**

While Elders and Cultural Advisors are already available to Indigenous individuals and non-Indigenous individuals committed to an Indigenous way of life, the same supports are not widely available for Black and other racialized people. Questionnaire results identified the importance of connection with identity/spirituality and cultural supports at hearings.

Recently, the PBC’s Atlantic Region contracted Cultural Advisors to support Black individuals at hearings. The Cultural Advisor is intended to create a more culturally responsive hearing process that promotes a better understanding of Black people for Board members, including information about the culture, experiences and traditions of the Black community. If requested, the Cultural Advisor will preside over Africentric or other ceremonies.



### Include diverse representation on the hearing panel

Not feeling represented can be intimidating and undermine trust in the criminal justice system. Further recommendations on increasing the diversity of staff and Board members are found [below](#).

### Facilitate interpreters at hearings and consider offering hearings in languages other than Canada's official languages

Lack of understanding may cause reluctance to participate. Communication must be clear and accessible, with translation and interpretation services available. Cultural differences in language should also be considered more broadly to ensure understanding. Indigenous language is often very descriptive and the language used by the PBC may be overly restrictive.

### Prepare individuals in advance of hearings

Forms and pamphlets on culturally responsive hearing options should be available to persons sentenced to imprisonment when they visit their Parole Officer and institutional Elder. Questionnaire respondents identified the importance of ongoing, direct communication. In-reach sessions were recommended at intake and again one year before parole eligibility, using a circle layout and method where appropriate.

## RECOMMENDATION

2. **Identify options to enhance awareness and responsiveness of Elder-Assisted Hearings and Community-Assisted Hearings**
3. **Incorporate elements of cultural responsiveness in hearing processes for Black people**
4. **Formalize a needs-based approach for the use of virtual hearings**

## RISK ASSESSMENT

### Current Activities

Using a structured decision-making framework, Board members assess all relevant aspects of a case to determine whether or not the release will constitute an undue risk to society and contribute to the protection of society by facilitating the person's reintegration into society as a law-abiding citizen. This includes conducting an assessment of the likelihood of re-offending, taking into consideration the nature and gravity of the offence that could be anticipated should the person re-offend. Board members

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***“[Addressing systemic racism is] more than just training...We must examine the practices, the tools (risk management in particular / ref Ewert v. Canada judgment, 2015) in order to ensure that the institutionalized practices do not have devastating effects on [...] offenders, particularly in terms of releases.”***

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Questionnaire Respondent

consider actuarial measures as part of this assessment, as well as established risk related domains. The Policy Manual requires that actuarial measures that predict violent behaviour, family violence and general re-offending should be used in accordance with the purpose for which they were developed and for groups on which they have been validated.

The PBC has a tool entitled *Risk Assessment Tools: A Guide*, which provides Board members with information on applying various actuarial risk assessment tools. This guide has recently undergone a review to provide revised information on the validity and applicability of risk assessment tools to specific

populations, with a focus on Indigenous populations further to the 2018 Supreme Court of Canada decision in *Ewert v Canada*. Studies have found that cultural training regarding risk assessments could help to counteract unfair assessments<sup>30</sup>.

In assessing risk, Board members consider whether any special conditions should be imposed on the conditional release. Special conditions can be imposed if they are considered reasonable and necessary in order to protect society and to facilitate the person’s reintegration into society or to protect the victim. Board members must establish and document a clear link between the condition and the probability of reoffending if the condition were to be violated; relate the condition to risk; ensure the condition can be complied with, enforced and monitored; and ensure that the condition does not contradict any court orders. The Board may also remove or vary a special condition when the condition or part of the condition is no longer reasonable and necessary.

## Challenges and Recommendations

An assessment of community functioning will often result in a higher risk score for an Indigenous person and be applied more harshly to women. This results in over classification and delays in seeking conditional release. In particular, Indigenous peoples are more likely to present several characteristics which are more heavily weighted by the classification system, so they are more affected than other groups<sup>31</sup>.

Additional work is required to assess the validity and effectiveness of risk assessment tools with Black and other racialized people. Questionnaire respondents indicated that these considerations should be made holistically, and behaviour should be understood through a health model to promote healing, rather than through a legal model to prevent further harm. This approach is reflected in desistance theory, which focuses on the process by which justice-involved individuals move out of criminal activity. Desistance is strength-based and person-centered, focuses more broadly on key areas for success, identifies barriers for individuals on supervision, and highlights the importance of community acceptance<sup>32</sup>.

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<sup>30</sup> Grekul (2020) *Prisoning Indigenous Women: Strength and Resilience in the Face of Systemic Trauma*, Aboriginal Policy Studies, Vol. 9, no.1.

<sup>31</sup> Lietch (2018) *The Constitutionality of Classification: Indigenous Overrepresentation and Security Policy in Canadian Federal Penitentiaries*, Dalhousie Law Journal, issue 1.

<sup>32</sup> American Probation and Parole Association (2022) *Integrating RNR with Desistance: Is Working Towards Something a Better Way of Evolving?*

A 2019 study on the use of parole conditions by the PBC<sup>33</sup> highlighted that the more special conditions imposed, the higher the likelihood of returning to custody, even after controlling for the individual's risk to reoffend. Return to custody is largely for breaches and not new offences. This effect is stronger for lower risk individuals compared to higher risk individuals. The study also found that a higher number of special conditions are imposed on Indigenous peoples, particularly relating to substance use and reporting relationships.

## RECOMMENDATION

5. **Update Board member tools to incorporate more information on diversity**
6. **Examine the use of special conditions to ensure they are facilitating rather than inhibiting conditional release**
7. **Integrate requirement to consider community alternatives in decision-making for Indigenous peoples**

## RECORD SUSPENSION

### Current Activities

The *Criminal Records Act* (CRA) provides the PBC with the jurisdiction to grant, order, refuse to grant or order, revoke or cease pardons/record suspensions for convictions under federal acts or regulations of Canada. Since 1970, more than 500,000 Canadians have received pardons and record suspensions. Ninety-five percent of individuals who have received a pardon/record suspension have remained crime free, demonstrating the value of a pardon/record suspension as a long-term measure that supports community reintegration. Between 2010 and 2012, the CRA underwent significant legislative changes. This included changing the term from 'pardon' to 'record suspension'; increasing the application fee, lengthening wait periods; making some offences ineligible; and introducing new decision-making criteria. These legislative changes limited access to record suspensions, thereby creating barriers to reintegration for many applicants.

In March 2020, the Federal Court of Canada released its decision in the matter of *P.H. v. Canada (Attorney General)*. The Court declared transitional provisions of 2010 and 2012 CRA amendments unconstitutional, as these sections apply retroactively to applicants who committed their offence prior to the amendments. As a result, individuals must have their application for a record suspension processed in accordance with the legislative criteria that was in place at the time the applicant committed their first offence.

As of January 1, 2022, the Government of Canada announced a reduction to the record suspension application fee from \$657.77 to \$50 in accordance with the Pardon Services Fees Order, as a means to take steps towards increasing accessibility.

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<sup>33</sup> Parole Board of Canada (2021) *Research Brief: Use of Parole Conditions by the Parole Board of Canada*

## Challenges and Recommendations

Having a criminal record disproportionately impacts racialized and marginalized communities, by exacerbating pre-existing socioeconomic barriers. The stigma of a criminal record can impede access to meaningful employment, housing, volunteer opportunities and education, among other social needs. Improving employment prospects and educational attainment are among the top predictors of sustained reintegration. Criminal records also contribute to social exclusion, homelessness, decreased mental health, poverty and family instability. Research highlights that criminal records create additional barriers for individuals leading conviction-free lifestyles, whereas record suspensions can facilitate the final step in the reintegration process.

The Government of Canada is committed to addressing systemic inequities in the criminal justice system, specifically for Indigenous peoples, Black Canadians, and other groups disproportionately affected by having a criminal record. In light of the importance that record suspensions play in reintegration, Budget 2021 provided \$88.2 million over five years to improve the record suspension application process by reducing application fees, creating an online application portal, and supporting community organizations that help people navigate the application process.

On June 10, 2021, Bill C-31 *An Act to Amend the Criminal Records Act and make consequential amendments to other acts* was introduced, but died on the order paper with the dissolution of Parliament. In conjunction with the reduction in application fee, the Bill proposed to further reduce barriers to pardons for individuals with criminal records who have served their sentences and are living law-abiding lives.

### RECOMMENDATION

#### 8. Remain supportive of efforts to reform the pardons program to address inequities in the criminal justice system

### Ensuring Staff and Board Members are Representative of the Diversity of the Canadian Population

#### Current Activities

The PBC is a “community board” with a legislative requirement in the CCRA for Board members to be sufficiently diverse in their backgrounds to represent community values and views. Over the past two years, the diversity of PBC Board members has increased to better reflect the diversity of the Canadian population. As of February 2, 2022, of the PBC’s 78 current Board members, 55% are women, 13% are Indigenous, and 13% are racialized. This is a significant increase from 2015, when only 35% were women, 5% were Indigenous and 1% were racialized.

Over the past three years, the PBC has taken steps to increase the diversity of its Board members through expanded recruitment efforts among Indigenous peoples, racialized communities, LGBTQ2+, and women. This has resulted in additional applications received from diverse communities, including 50.8% from women, 8.9% from Indigenous peoples, 19.7% from racialized people, and 6% from the LGBTQ2+ community. Current expanded recruitment efforts include reaching out to national associations, groups, and stakeholders to raise awareness of the notice of opportunity.

In terms of PBC staff composition, according to the *Employment Equity Act*, as of March 31, 2021, 78.7% are women, 5.7% are Indigenous, 5.7% are persons with disabilities, and 15.1% are racialized. It is not only important to ensure that employees are representative of the diversity of the Canadian population, this representation should be visible within all occupational categories within the organization. Diverse employees should also have the ability to participate and contribute so that their perspective is considered in decision-making. Developmental acting and assignment opportunities are offered to racialized employees, however no tracking and measurement tools are currently available to report on this formally. As such, the PBC has developed a 3-year Employment-Equity Plan to support the PBC's efforts to become more representative of the population it serves and to create an inclusive, healthy workplace free of discrimination and barriers to employment and career.

In the most recently available results of the Public Service Employee Survey, conducted in 2019, 76% of all employees at the PBC believed that every individual in their work unit is accepted as an equal member of the team and 74% of PBC employees felt that their organization respects individual differences. Both of these results are similar to the result for the overall public service. Further, 74% of PBC employees indicated that their organization implements activities and practices that support a diverse workplace, a decrease from 2018 (77%), a decrease from 2017 (79%), and lower than the result for the overall public service (79%).

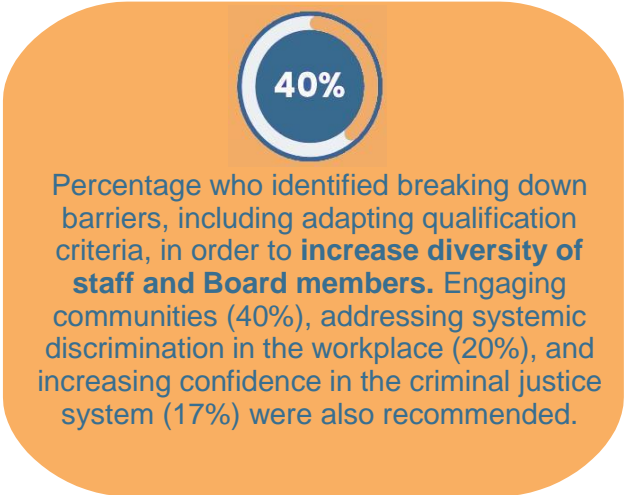
To address employee feedback, support the recent Call to Action on Anti-Racism, Equity, and Inclusion in the Federal Public Service, and comply with legislative initiatives, the PBC's Corporate Services developed a Diversity and Inclusion Plan for People Management at the PBC. This plan focuses on obligations in the areas of recruitment and people management. More specifically, the plan focuses on: hiring, employment equity, diversity and inclusion, accessibility, official languages, and performance and talent management. It outlines concrete actions for PBC leaders and employees to fulfill our obligations while creating a transformative and effective organizational culture under four pillars: 1) leadership engagement and culture shift; 2) career development and talent management; 3) recruitment; and 4) reporting and planning.

The PBC is also committed towards an accessible workplace following the principle “**Nothing About Us Without Us**” in compliance with the *Canada Accessible Act*. To fulfill the requirement of publishing a 3-year Accessibility Plan, the PBC is implementing an “Accessibility Tiger Team”. This Tiger Team will be responsible to consult with persons with disabilities to identify action items for an organizational Accessibility Plan with the aim to proactively identify, prevent and remove barriers and ensure greater opportunities for persons with disabilities.

## Challenges and Recommendations

Questionnaire respondents highlighted the importance in breaking down barriers, including childcare, transportation, and qualification criteria in order to increase diversity of staff and Board members. Dialogue on requirements and credentials should be improved with prospective candidates, including providing options for mentorship/coaching opportunities with existing Board members.

Racialized communities should be engaged as part of recruitment efforts, with a community capacity coordinator role to assist in reaching communities and diverse groups. A best practice in breaking down barriers is the partnership in the Ontario region with the Federal Internship for Newcomers Program in support of inclusive hiring. In addition, communications that are developed for recruitment initiatives should highlight the PBC's role in assisting individuals to become productive members of society and communities - "part of the solution not part of the problem". That same mentality should be translated into internal structures and policies to ensure they are free from systemic racism.



In addition to ensuring representation of PBC staff and Board members, the PBC also needs to consider the employee experience. As part of its commitment to creating an open, healthy, safe, and inclusive workplace, anti-racism and equity measures should be put in place to promote full participation of diverse staff. This includes committing to personal-learning activities as an organization, fostering an environment where these types of conversations are encouraged and supported, supporting racialized employees in leaderships or career development programs, and advancing employee networks.

## RECOMMENDATION

- 9. **Develop a comprehensive plan for employee engagement and inclusiveness**
- 10. **Ensure diversity is represented within the PBC**
- 11. **Promote the PBC's commitment to diversity and inclusion and highlight government wide initiatives available to diverse employees**

## Providing Cultural Training to Staff and Board Members

### Current Activities

The PBC is committed to bias-free and evidence-based decision-making which is reflected in its current training initiatives. The PBC provides in-depth initial orientation and regular ongoing training to Board members. Currently, Board member orientation training includes sessions on considering the systemic and background factors that may have played a part in bringing individuals into interaction with the criminal justice system. The PBC continuously reviews its Board member training to ensure the appropriate level of focus on cultural competence. Staff and Board members also receive training on conscious, unconscious and perceived bias.

At the PBC's Annual Training on Risk Assessment, recent sessions were presented to Board members and hearing officers on "Offender Race and Bias" (2019) and "Offenders of African Descent" (2021). The title of the annual training for 2022 was "Intersectionality in assessing risk: Strengthening our responsiveness to Indigenous peoples" and included sessions on Indigenous Social History and risk assessment, hearing management with a focus on Indigenous peoples, mental health and disconnection from culture, Indigenous women, community reintegration and restorative justice, along with a session featuring individuals with lived experience of the criminal justice system.

Across the country, regional Board member training sessions include topics relevant to diversity issues, and self-directed training by individual Board members includes significant study on issues concerning Indigenous and Black communities. The PBC also provides Indigenous Cultural Responsiveness Training (ICRT) to its Board members. ICRT is a mandatory three-day session and part of the core training provided to all Board members, usually during their first year of appointment. It is designed to strengthen a Board member's understanding of the role and importance of spirituality, healing and culture in the rehabilitation and reintegration process for many Indigenous peoples. The objective of ICRT is to enhance Board members' ability to render culturally informed decisions. In 2020, the PBC completed a review of ICRT to include more focus on hearing management, applying systemic factors, and demonstration of systemic factors in reasons for decision.

The PBC has added courses on overcoming unconscious bias and GBA+ to its mandatory Learning Roadmap for employees. The overcoming unconscious bias course, developed by the Canada School of Public Service (CSPS), assists employees to recognize, identify and accept their own biases, take steps to overcome them in a diverse workplace. The GBA+ introduction course, developed by Women and Gender Equality Canada, provides information on how to apply an intersectional GBA+ analysis to enhance the responsiveness, effectiveness, and outcomes of federal government initiatives. The Inclusive Hiring Practices for Diverse Workforces course, also developed by the CSPS, is also mandatory for all sub-delegated managers, HR professionals and other individuals involved in a hiring process. This course presents best practices and staffing strategies for conducting an inclusive and bias-free hiring process.

Additionally, the PBC's Regional Communication Officers (RCOs), who provide outreach sessions and front-line services to victims and members of the public, receive regular cultural training sessions, including recent sessions on "Workplace Inclusion for Gender and Sexual Diversity" and "Active Anti-Oppressive Anti-Racist Grounding Principles for Culturally Appropriate Engagement with Victims".

## Challenges and Recommendations

73%

Percentage who identified cultural competency training to **contribute to an inclusive organization**, including Board member participation in cultural/spiritual events. Training on trauma (20%), anti-racism (17%), unconscious bias (13%) and addiction/mental health (10%) were also recommended.

Questionnaire results highlighted the importance of culturally competent and trauma-informed training initiatives. Cultural competency refers to an ability to interact effectively with people of different cultures. These training initiatives should be annual and ongoing, with the principles and values integrated within the organization. Informal training activities to increase cultural competency were also recommended, such as Board member attendance at cultural and spiritual events, such as Sweats, Sundances, Blanket Ceremonies, and Vision Quest Ceremonies.

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*In an open letter, Deputy Minister Quan-Watson compared racism and discrimination in Canada to high blood pressure: “It’s always there. I don’t know when I’m going to notice it, or how or when it will show up. Even when it does, I can’t always see its consequences right away, but it is definitely present and it definitely isn’t good [...] Just as with high blood pressure, I would be both wrong and foolish to pretend that it isn’t there, that it isn’t something with negative impacts, and that it will just go away. Many, many people don’t have high blood pressure. They will never experience it. That’s fantastic. But just because they don’t have it, and because I have found ways of dealing with it and refuse to let it define me does not mean that it doesn’t exist or that it isn’t having an impact.”*

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Deputy Minister Quan-Watson of Crown-Indigenous Relations and Northern Affairs Canada

## RECOMMENDATION

**12. Increase awareness and understanding of systemic racism and its implications**

**13. Provide Board members with additional training to enhance their ability to render culturally informed decisions**

## Increasing and Improving Engagement with Communities and Criminal Justice Partners

### OUTREACH

#### Current Activities

The PBC is mandated under paragraphs 101(b) and 111(a)(b) of the CCRA to deliver a program of communications about its policies and programs to persons sentenced to imprisonment, victims, victims’ groups, other groups and organizations with an interest in conditional release, and the general public, with the goal of enhancing its effectiveness and openness.



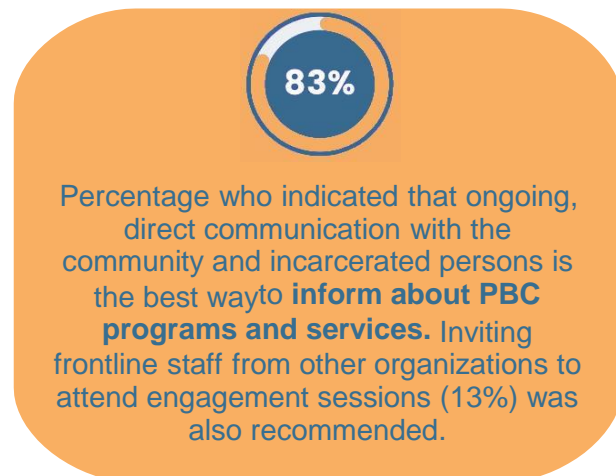
The PBC's outreach activities support the organization's mandate and corporate priorities, and fosters constructive communication and engagement with key partners, stakeholders and the public. These outreach initiatives help to explain the PBC's mandate, programs and services and contribute to enhancing Canadians' understanding and confidence in the Board as a credible and integral component of the criminal justice system. The PBC's outreach activities help to inform our key target audiences about how the conditional release, record suspension, expungement and clemency systems work; and how these contribute to reintegration and public safety.

Significant progress has been made towards bolstering engagement with new and existing criminal justice and community partners. This includes outreach to targeted Indigenous and racialized communities, women's organizations, victims groups, local/regional police and courts, employment agencies, and post-secondary academic institutions.

In addition to external outreach sessions, the PBC regularly conducts in-reach with incarcerated persons across Canada to explain the PBC's mandate and to raise awareness of the parole and decision-making process. These efforts aim to help prepare individuals for upcoming reviews, and are often targeted to vulnerable populations such as women, Indigenous, and other racialized individuals.

### Challenges and Recommendations

Questionnaire respondents emphasized the importance of building relationships with communities by working directly with local/regional organizations to co-host events, such as information session workshops. The PBC should continue to strengthen existing and develop new relationships with community stakeholders. Doing so helps facilitate long-term engagement, promotes openness and accountability, and generates trust within racialized communities.



Strong community partnerships are vital towards achieving truly responsive processes that adopt a community-oriented continuum of care/restorative approach when considering reintegration. Specifically, localized community supports help individuals reintegrate into the community as law-abiding and contributing members of society. Local organizations can promote pro-social lifestyles and assist individuals in addressing need areas, such as housing and employment; which in turn reduces the possibility of breaching conditions and/or re-offending. Together, this can help limit further contacts with the law and increases public service more broadly.

One of the recommendations from respondents included having a formal capacity for community groups working directly with persons sentenced to imprisonment to submit information and recommendations to the Board, such as removal or reduction of PBC-imposed special conditions or graduating the release type from day to full parole that would trigger a review by the Board. The questionnaire responses also highlighted the importance of adapting the approach to in-reach sessions where possible and appropriate.

This includes conducting in-reach sessions: to specific marginalized groups, more regularly throughout a person's sentence (upon intake and again one year before parole eligibility), in-person, and using holistic language and formats (i.e. a circle method, where appropriate).

## RECOMMENDATION

### 14. Increase engagement and support within racialized groups

#### ADVISORY GROUPS

##### Current Activities

The PBC participates in internal and external working groups and committees, such as the Chairperson's Indigenous Circle (CIC), to remain informed and sensitive to the issues facing Indigenous peoples. The Chairperson hosts a CIC meeting, twice per year, drawing on the wisdom of Indigenous community leaders from across Canada. The CIC provides advice and recommendations on policy, procedures, training or operations arising from the Board's mandate for conditional release or Clemency and record suspension that will improve the efficiency and effectiveness of the Board in meeting the needs of Indigenous persons sentenced to imprisonment, applicants, victims and communities.

In addition to drawing on input from the CIC, contracted Elders and Cultural Advisors occasionally serve an advisory function during consultations and program development. An important principle in reconciliation requires the public service to continually re-assess how it involves Indigenous partners at all stages of its work.

##### Challenges and Recommendations

Advisory groups similar to the CIC are not currently in place with the PBC for Black and other racialized communities. CSC has Ethnocultural Advisory groups in place regionally and nationally, as well as Ethnicity Liaison Officer positions at each institution to help build and maintain linkages with culturally diverse community groups and organizations to ensure the needs of racialized people are met.

Questionnaire respondents identified the importance of review and advisory committees that are in place for racialized people, with power to influence direction.

## RECOMMENDATION

### 15. Establish a forum to gain insight on matters related to the PBC's mandate in meeting the needs of racialized people

## Improving and Expanding Data Collection, Research, and Reporting

### Current Activities

As part of the 2018 Federal Budget, the Government of Canada announced the creation of a Centre for Gender, Diversity and Inclusion Statistics within Statistics Canada to maintain a [public-facing data hub](#) to support evidence-based policy development and decision-making. Furthermore, as part of the 2021 Federal Budget, the Government of Canada provided funding to Statistics Canada to implement a Disaggregated Data Action Plan that will fill data and knowledge gaps related to specific population groups, such as women, Indigenous peoples, racialized populations and people living with disabilities. Statistics Canada is currently working on incorporating new variables to ensure that equity related information is collected. Not only is it important for this information to be collected, up-to-date data needs to be widely available within all federal organizations. The provision of this information goes hand-in-hand with completing an intersectional analysis, such as GBA+, as part of day-to-day decision-making.

The PBC produces and tables a Departmental Results Report in Parliament each fall. This report plays an important role in how government departments report to Parliament and Canadians by providing a snapshot of the Board's performance and achievements over the past fiscal year as a measure against expected results identified in the corresponding Departmental Plan. The PBC also produces yearly Performance Monitoring reports and a Human Resources Integrated Plan which includes a dashboard of employment equity related data.

Research at the PBC informs data-driven policies and practices. Research plans are produced yearly, and an intersectional approach to research and data analysis are reflected within each project.

### Challenges and Recommendations

The systematic collection and reporting of disaggregated data is critical in improving insights and informed decision-making. Disaggregated data should include all intersecting identity factors, in addition to race, at the lowest level of population detail possible while respecting quality and confidentiality. Identifying communities and population subgroups that are disproportionately impacted at all levels of the criminal justice system, including conditional release, helps to inform targeted program and policy initiatives<sup>34</sup>. The PBC does not currently have disaggregated data across all programs, readily accessible to staff and Board members.

Consistent tracking and measurement of results, through performance and program reporting, is required to determine whether progress is being achieved over time. Ongoing measurement can help demonstrate whether existing programs and policies are properly designed and resourced and if there are gaps that must be addressed. For instance, tracking characteristics of individuals who waive, postpone, or withdraw their reviews may offer insight into why certain groups remain incarcerated longer. Finally, measurement can help ensure accountability and transparency, while stimulating conversation and inviting change.

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<sup>34</sup> Owusu-Bempah et al. (2021) *Race and Incarceration: The Representation and Characteristics of Black People in Provincial Correctional Facilities in Ontario, Canada*, Race and Justice.

## RECOMMENDATION

### 16. Improve and expand disaggregated data and reporting

### 17. Make available supplementary and up to date information on the characteristics of individuals who waive, postpone or withdraw consideration for conditional release, including insights into their motivations

## Enhancing Culturally Appropriate Victim Services

### Current Activities

The *Canadian Victims Bill of Rights* (CVBR) came into force on July 23, 2015, enshrining statutory rights for victims to information, protection, participation and restitution. In addition, the CCRA recognizes that victims of crime have an important role to play in the criminal justice system, and gives victims an opportunity to participate in the federal corrections and conditional release process. It also entitles individuals who meet the definition of victim in the CCRA to request to receive certain information about the person who harmed them. The PBC informs registered victims of scheduled conditional release reviews and decisions. The PBC can also provide victims with a copy of the decision through its Registry of Decision, upon request. Victims may also request to listen to audio recordings of certain parole hearings.

Registered victims may choose how they want to receive information, by phone, mail, or through the secure online Victim's Portal. They may name a representative to receive information on their behalf. Once designated, victim representatives receive the requested information directly.

Victims may also provide a written statement at any time for consideration in the PBC's decision-making in relation to the harm suffered and to share any concerns they may have in regard to themselves, family members or the community. Victim statements help Board members understand the seriousness of the offence and to assess whether there is recognition for the harm done. It also helps them assess the likelihood of reoffending during conditional release, and if additional conditions are reasonable and necessary to manage risk in the community. When victim statements are submitted to the PBC, Board members must impose any release condition that it considers reasonable and necessary to protect the victim. If the Board does not impose any conditions to protect the victim, they must provide an explanation within their reasons for decision.

Victims attending a hearing may have support people attend the hearing with them. Victims are also accompanied, in-person or virtually, by a PBC RCO. The RCO explains the hearing process and answers any questions the victim may have. The Department of Justice Victims Fund offers financial assistance for victims and up to one support person. Victims may present their victim statement at the hearing, or designate a support person who will attend the hearing with them to read the statement on their behalf. Victims may also choose to present their statement via an audio or video recording, whether or not they are attending the hearing.

As part of the EAH process, victims may request to speak with the Elder or Cultural Advisor prior to the hearing to receive a brief explanation concerning the EAH process and/or Indigenous culture and traditions. The role of the Elder or Cultural Advisor is not to counsel the victim, intervene in their healing path, or provide information about the person sentenced to imprisonment. Victims can choose whether or not to participate in ceremonies and/or prayers at the hearing, and request to sit in the inner or outer circle.

If victims believe any of their rights under the CVBR have not been respected by the PBC, they have the right to file a complaint. Following receipt of the complaint, the PBC will send an acknowledgement within two business days and will try to resolve the complaint within 20 business days.

## Challenges and Recommendations

The questionnaire provided the following recommendations to support Indigenous, Black, and other racialized victims of crime:

### Pro-active communication and provision of services

Tailored communication should be provided to registered victims in advance of hearings to explain the process and expectations. Lack of knowledge can cause mistrust and concern by the victim.

### Assistance from community/familial supports

Supports are important for racialized victims as cultural barriers may impact understanding. Community organizations play an important role in supporting victims at hearings, within the community, and at times in acting as a representative to assist in the provision of information to victims. This questionnaire finding is consistent with previous engagement from the National Victims Roundtable on the Right to Information in Federal Corrections and Conditional Release<sup>35</sup> where it was recommended to leverage multi-cultural organizations, community based cultural centers, and community leaders as access points for the provision of information in a manner that is respectful and meaningful. Although community and familial supports were specifically identified in the findings, victims should have flexibility to indicate their own preferences for support.

### Restorative opportunities at hearing due to strong community/relational ties

Racialized victims often have relational ties with the person who harmed them, which reinforces the need for a community reconciliation process. Reconciliation is important in Black communities as a means of healing to disrupt legacy/revenge crime, while restitution is important for Indigenous victims.

### Services provided in a culturally competent and trauma-informed manner

Victims feel that the PBC Elder and CSC Elder/staff are there to support the person sentenced to imprisonment. Previous consultation with the PBC's Committee on Victims identified that the PBC may

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<sup>35</sup> National Office for Victims (2020) [Summary Report: National Victims Roundtable on the Right to Information in Federal Corrections and Conditional Release](#)

want to further consider the roles of victims who are seated inside the circle at EAHs. In a traditional circle, participants can speak freely, while in a circle at a PBC hearing, victims are limited to the content of their statement due to information sharing requirements under the law.

## RECOMMENDATION

- 18. Regional Communication Officers are provided with training and tools to ensure consistent and culturally appropriate communication with victims**
- 19. Review victims' involvement when attending Elder-Assisted Hearings and Community-Assisted Hearings**

## Application to Other Populations

Although the scope of this report is focused on Indigenous, Black, and other racialized people, it is important to acknowledge the various other populations and marginalized groups to which many of these findings will apply. The PBC's Women Offenders Working Group Report<sup>36</sup> arrived at similar findings in the importance of adopting a trauma-informed, and strength based approach at all levels of decision-making.

The PBC has a GBA+ Framework, ensuring that GBA+ is applied in all areas of the PBC's policies, programs, and initiatives. The framework guides the PBC in considering not only biological (sex) and socio-cultural (gender) differences, but also other factors such as race, ethnicity, religion, age, and mental or physical disability. Completing a GBA+ analysis, to consider intersecting identities should be incorporated in every Board member decision.

## Conclusion

Through this report's engagement process, we have strived to identify solutions to help address systemic racism and discrimination as it relates to the PBC's mandate within the criminal justice system. The subsequent action plan will take steps towards implementing and monitoring the PBC's work, as we move towards diversity, inclusion and equity in both decision-making and in the PBC's workplace.

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<sup>36</sup> Parole Board of Canada (2019) *Women Offenders Working Group Report, Gendered Parole: Responding to Women's Needs*

## Annex A: Existing Reports and Recommendations

A number of recent studies and reports have addressed the issue of over-representation of Indigenous, and Black people in the criminal justice system. Recommendations have been aimed at all areas of the justice continuum, including corrections and conditional release, to take action and implement policies and programs to address the over-representation.

As part of its mandate, the Joint PBC/CSC Committee on Diversity and Systemic Racism, and later the PBC Working Group on Diversity and Systemic Racism, reviewed various existing reports to identify recommendations that fall within the mandate of the PBC.

### Reports Reviewed by the Joint PBC/CSC Committee on Diversity and Systemic Racism

#### Statement by the Parliamentary Black Caucus

On June 17, 2020, the Parliamentary Black Caucus released a statement in response to the anti-racism protests taking place in Canada and around the world. To minimize the consequences of systemic racism, the Parliamentary Black Caucus called on the Government of Canada to act on several proposals within the Public Safety portfolio, including addressing the lack of representation of Black Canadians and Indigenous peoples in Parole Board members and senior prison administration; ensuring that there is Black Canadian representation up to the senior ranks and that Black Canadian youth are recruited in the public sector; and implementing effective anti-bias training and evaluation programs throughout the public service.

As it relates to the Justice mandate, the Parliamentary Black Caucus also called on the federal government to implement pre-sentencing reports for Black, Brown, and other racialized Canadians similar to *Gladue* reports for Indigenous persons.

#### National Inquiry into Missing and Murdered Indigenous Women and Girls Calls for Justice

On June 3, 2019, the National Inquiry into Missing and Murdered Indigenous Women and Girls presented its two volume final report, *Reclaiming Power and Place*, identifying how governments can work to honor Indigenous women, girls and 2SLGBTQQIA people, to protect their human and Indigenous rights. A number of Calls for Justice were made directly to CSC, and are of interest to PBC, including applying *Gladue* factors in all decision making concerning Indigenous women and 2SLGBTQQIA people and in a manner that meets their needs and rehabilitation; ensuring that correctional facilities and programs recognize the distinct needs of Indigenous peoples; and enhancing the role and participation of Elders in decision-making for all aspects of planning for Indigenous women and 2SLGBTQQIA people.

#### Reports of the Correctional Investigator

For a number of years, the Office of the Correctional Investigator (OCI) has included Indigenous corrections as an area of focus in their annual report, noting the on-going issue of over-representation of Indigenous peoples in the federal correctional system, as well as a general need for CSC and PBC, to take into account the *Gladue* factors in their decision-making. The OCI consistently recommends that decision-making be based on culturally appropriate assessment tools; that corrections increase community engagement; and that staffing better reflect the diversity of the federally incarcerated population.

In 2012-2013, the Office of the OCI completed a review of the experiences and outcomes of Black federally incarcerated persons. While the OCI recognized that CSC had implemented a number of measures to better identify and meet the needs of a more ethno-culturally diverse population, challenges remain to reflect, respond to and accommodate diversity. To address these challenges, the OCI made recommendations to enhance training in the areas of diversity, sensitivity awareness and cultural competency; and to build and maintain linkages with culturally diverse community groups and organizations, ensuring the needs of racialized people are met and facilitating culturally appropriate program development and delivery at the site level.

### **Report of the Standing Committee on the Status of Women, A Call to Action: Reconciliation with Indigenous Women in the Federal Justice and Corrections Systems**

In June 2018, the Standing Committee on the Status of Women released a report entitled *Reconciliation with Indigenous Women in the Federal Justice and Corrections System*, which made a number of recommendations, including providing training to CSC and PBC staff on *Gladue* reports; partnering with Indigenous organizations to offer culturally adapted programs and services; ensuring access to Elders and that Elders be given an enhanced role in parole hearings; filling PBC Board member vacancies; and limiting the use of videoconference for PBC hearings.

### **Report of the Standing Committee on Public Safety and National Security, Indigenous People in the Federal Correctional System**

In June 2018, the Standing Committee on Public Safety and National Security released its report on *Indigenous People in the Federal Correctional System*, which made a number of recommendations aimed at CSC and PBC, including increasing the use of Elder-Assisted Hearings; developing risk assessment tools that are more sensitive to Indigenous reality; increasing Indigenous staff representation; and implementing culturally adapted programs.

### **Truth and Reconciliation Commission Calls to Action**

In June 2015, the Truth and Reconciliation Commission of Canada identified numerous Calls to Action to redress the legacy of residential schools and advance the process of reconciliation. Calls to Action which fall under the mandate of CSC and PBC include eliminating the over-representation of Indigenous peoples in custody over the next decade, working with communities to provide culturally relevant services to Indigenous incarcerated persons, creating Indigenous-specific victim programs and services, and providing education to public servants on the history of Indigenous peoples.

### **Report of the Standing Committee on Human Rights, Human Rights of Federally-Sentenced Persons**

The Standing Senate Committee on Human Rights (RIDR or the Committee) released its report entitled *Human Rights of Federally-Sentenced Persons* on June 16, 2021. In 2016, RIDR was tasked with conducting a study on the human rights of federally-sentenced persons. The bulk of the information in the report was gathered between February 2017 and May 2019, from witness testimonies and visits to federal institutions.

The Committee heard from witnesses that numerous barriers prevent federally-sentenced persons from obtaining early release, including access to appropriate programming and lack of preparation for conditional release, in particular for marginalized and vulnerable groups. Witnesses brought up issues specific to groups of federally-sentenced persons with special requirements and/or mental health issues, federally-sentenced women, federally-sentenced Black persons, and federally-sentenced Indigenous peoples. A number of witnesses indicated that section 84 release plans could help reverse the trend of federally-sentenced Indigenous peoples being disproportionately denied access to early release and



increase the likelihood of successful reintegration. Concerns were raised with the overall lack of awareness and understanding of section 84 release, and some witnesses suggested that this provision should be expanded to other groups, especially federally-sentenced Black persons.

### **Fall Reports of the Auditor General of Canada - Preparing Indigenous Offenders for Release - Correctional Service of Canada**

The Auditor General of Canada completed an audit in 2016 focusing on the provision of correctional interventions and programming to Indigenous incarcerated persons. The audit found that while programming was provided, it was not provided in a timely or culturally specific manner. The audit highlighted the importance of preparing low-risk individuals for parole hearings when they are first eligible for conditional release. The audit found that staff did not adequately define or document how participation in culturally specific correctional interventions contributed to the potential for successful reintegration in the community. Staff were also not provided with sufficient guidance or training on how to apply Indigenous social history in case management decisions.

### **Additional Reports Reviewed by the PBC Working Group on Diversity and Systemic Racism**

#### **Call to Action on Anti-Racism, Equity, and Inclusion in the Federal Public Service**

The Clerk of the Privy Council and Secretary to the Cabinet released the Call to action on January 22, 2021. The Call to action highlighted the need to make meaningful change in addressing barriers and disadvantages. Specially, Public Service leaders are called to appoint, sponsor, support, and recruit Indigenous, Black and other racialized individuals to the public service and towards leadership positions. Public Service leaders were also called on to invest in developing inclusive leadership skills and in establishing a sense of belonging and trust for all public servants.

#### **Building a Foundation for Change: Canada's Anti-Racism Strategy 2019-2022**

Canada's Anti-Racism Strategy was developed following community engagement forums and an online poll and survey. The strategy, and \$45 million investment, is focused on taking immediate steps to combat racism and discrimination. The strategy identified the importance of increasing awareness, improved disaggregated data, building capacity at the community level, and meaningfully involving racialized communities in the design and decision-making related to proposed government actions. As part of the strategy, a new Anti-Racism Action Plan will provide funding support to improve a number of key areas of intervention (employment, social participation and justice).

#### **United Nations Human Rights Council, Report of the Working Group of Experts on People of African Descent on its Mission to Canada**

In September 2017, the United Nations published a report following an invitation from the Government of Canada. The report highlighted that Canada has taken special measures to advance substantive equality groups, most notably for Indigenous peoples. Measures have not been introduced specifically for Black Canadians despite the disparities and systemic anti-Black racism and discrimination. In the area of criminal justice, there is clear evidence of racial profiling and over-representation at all levels in the criminal justice system. A number of recommendations were made, including to develop strategies to address the over-representation and discrimination of Black people in the criminal justice system; develop a national diversity-awareness training plan for the federal and provincial correctional services and appoint an ethnicity liaison officer in each institution; and provide training on unconscious bias to people working in the criminal justice system.

## Immigration, Refugees and Citizenship Canada Anti-Racism Task Force

Immigration, Refugees and Citizenship Canada (IRCC) released an Anti-Racism Value Statement as a pledge and commitment to significantly advance efforts on anti-racism, diversity, equity, and inclusion for employees and clients. IRCC indicated that it will take action to: actively promote anti-racism; proactively engage in dialogue that normalizes discussions of racism and systemic barriers; be accountable and transparent through the collection and dissemination of disaggregated data; identify and address discrimination and barriers in all policies, programs, and initiatives; ensure that equity seeking groups have fair and equitable access to career advance and ensure representation in decision and policy making bodies; support and strengthen diverse employee networks; create safe workspaces; partner with external equity-seeking groups and organizations; and celebrate positive actions and contributions.

## Canadian Human Rights Commission's Anti-Racism Action Plan

The updated September 2021 version of the Canadian Human Rights Commission's Anti-Racism Action Plan outlines commitments to address the effects of societal systemic racism and discrimination. Recommendations are related to their role as an employer, as a service provider and regulator, and as a human rights advocate. Highlights include enhancing internal accountability and leadership, development of inclusive policy, increasing diversity and removing barriers in the workplace, expanding professional development and training, advocating for diversity and inclusion in external processes, and improving disaggregated data collection.

## Federal Pathway to Address MMIWG and 2SLGBTQIA+ People

On June 3, 2021, the Government of Canada outlined its commitments to end violence against Indigenous women and girls and Two-Spirit, Lesbian, Gay, Bisexual, Transgender, Queer, Questioning, Intersex and Asexual (2SLGBTQIA+) people. The pathway included a commitment to develop culturally appropriate and accessible justice support services for victims and families and trauma-informed programs. Indigenous-led and community-based responses are also needed, along with systemic changes, to reset the relationship between Indigenous peoples and the justice system.

## United Nations Declaration on the Rights of Indigenous Peoples

The United Nations Declaration on the Rights of Indigenous peoples was adopted by the General Assembly in September 2007. The declaration establishes an internationally recognized universal framework of minimum standards for the survival, dignity, and well-being of Indigenous peoples and it elaborates on existing human right standards and fundamental freedoms. Of particular relevance to the PBC, the declaration emphasizes Indigenous rights to equality and self-determination and rights to practice and revitalize cultural traditions and practices.

## Office of the Federal Ombudsman for Victims of Crime

In the Federal Ombudsman's June 3, 2021 statement on the two-year anniversary of Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls, the Ombudsman office expressed support for the development of accessible and culturally appropriate victim services specific to Inuit and Métis victims, families, and communities to assist them in navigating the legal system and to support their healing.

# Annex B: Consultation Guide for Participants



Parole Board  
of Canada

Commission des libérations  
conditionnelles du Canada

## Diversity and Systemic Racism Questionnaire

*Parole Board of Canada  
Consultation Guide for Participants*



November 2021

# About This Consultation Guide

The information provided within this Consultation Guide is intended to assist individuals/organizations in responding to the consultation questionnaire in order to help shape the Parole Board of Canada’s (PBC or the Board) Working Group on Diversity and Systemic Racism’s Action Plan.

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*This engagement seeks to understand how the criminal justice system, specifically in the area of conditional release, can be more responsive to the needs of Indigenous, Black, and other Racialized offenders with the goal of improving their experiences and outcomes.*

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The Consultation Guide covers the following topics:

Overview of the Parole Board of Canada.....	1
Conditional Release Decision-Making.....	2
Overrepresentation in the Criminal Justice System.....	3
Objective of the Consultation.....	3
Themes for Action.....	4
Current Parole Board of Canada Initiatives.....	4
Stakeholder Questionnaire.....	5

## Overview of the Parole Board of Canada

The PBC is an independent administrative tribunal that reports to Parliament through the Minister of Public Safety. The PBC is part of the Public Safety Portfolio.

The PBC has authority under the [Corrections and Conditional Release Act](#) (CCRA) to grant, deny, cancel, terminate or revoke day parole, full parole, and authorize or approve temporary absences for offenders serving sentences of two years or more.

The PBC can also order offenders who have reached their legislated statutory release date to be detained until the end of their sentence, upon referral by the Correctional Service of Canada (CSC).

In addition, the Board may impose certain conditions on any release that the offender must abide by. The PBC also makes parole decisions for offenders serving sentences of less than two years in all provinces and territories except Ontario, Quebec and Alberta, which have their own parole boards.

The PBC also has legislated responsibility to:

- order, refuse to order, and revoke record suspensions under the [Criminal Records Act \(CRA\)](#);



THE PAROLE BOARD OF CANADA, AS PART OF THE CRIMINAL JUSTICE SYSTEM, CONTRIBUTES TO THE PROTECTION OF SOCIETY BY FACILITATING, AS APPROPRIATE, THE TIMELY REINTEGRATION OF OFFENDERS AND THE SUSTAINED REHABILITATION OF INDIVIDUALS INTO SOCIETY AS LAW-ABIDING CITIZENS. THE BOARD MAKES INDEPENDENT, QUALITY CONDITIONAL RELEASE, RECORD SUSPENSION AND EXPUNGEMENT DECISIONS, AS WELL AS CLEMENCY RECOMMENDATIONS, IN A TRANSPARENT AND ACCOUNTABLE MANNER, WHILE RESPECTING DIVERSITY AND THE RIGHTS OF OFFENDERS AND VICTIMS.

PBC Mission Statement

- order or refuse to order expungement of a conviction under the [Expungement of Historically Unjust Convictions Act](#); and,
- make recommendations for the exercise of clemency through the [Royal Prerogative of Mercy](#).

The PBC is made up of full and part time Board members who are supported by public servants. Board members are appointed by the Governor in Council; that is, by the Governor General on the advice of the federal cabinet. The CCRA requires that PBC Board members be sufficiently diverse in their backgrounds to represent community values and views. The PBC's National Office is located in Ottawa with the majority of Board member decision-making occurring in its five regions: Atlantic, Quebec, Ontario/Nunavut, Prairie/Northwest Territories, and Pacific.

*Of the 81 current Board members, 54% are women, 14% are Indigenous and 12% are Visible Minority. As of March 31, 2020, 79.8% of PBC's employees are women, 14.4% are Visible Minority and 4.9% are Indigenous.*

## Conditional Release Decision-Making

Conditional release is a bridge between incarceration and return to the community. It contributes to the protection of society by allowing some offenders to continue to serve part of their sentence outside of the institution in the community under the supervision of a CSC Parole Officer, and subject to conditions.

Conditional release does not mean that offenders are completely free, without supervision. It does mean that offenders have an opportunity to become contributing members of society. Common forms of conditional release include day parole and full parole. Day parole allows offenders to participate in community-based activities so they can prepare for release on full parole or statutory release. Offenders on day parole live in a community-based residential facility or other approved accommodation. Full parole allows offenders to serve part of their sentences in the community.

Conditional release is under the supervision and assistance of a CSC Parole Officer and requires offenders to abide by the conditions of their release. If the conditions of release are not met, or if the offender's risk increases, the PBC can revoke the conditional release and the offender can be returned to the institution.

The majority of offenders are serving fixed-length sentences. This means they will eventually be released back into the community once their sentence ends. Conditional release contributes to public safety by

helping offenders re-integrate into society as law-abiding citizens through a gradual, controlled, and supported release with conditions.

### Over the past 10 years:

- 93% of offenders granted day and full parole by the PBC have not committed a new offence while on parole;
- 99% have not committed a new violent offence while on parole.

When making conditional release decisions, Board members consider all relevant and available information in assessing an offender's risk to re-offend. Information from the police, courts, Crown attorneys, mental health professionals, correctional authorities, private agencies, and victims of crime is used in assessing an offender's risk to re-offend and whether that risk can be safely managed in the community.

Conditional release decisions are made through file reviews or by holding a hearing. A hearing is a meeting between Board members and the offender. Its purpose is to help Board members assess the risk that offenders pose if they are granted conditional release and determine whether the risk can be managed in the community. Other individuals may be present at the hearing, including an offender assistant, victims, media, and members of the public.

In addition to standard face-to-face hearings, offenders can request Elder-Assisted Hearings and Community-Assisted Hearings. Elder-Assisted Hearings involve an Indigenous Elder or Cultural Advisor and are traditionally held in a circle format. Community-Assisted Hearings also include an Indigenous Elder or Cultural Advisor, but are usually held in the community. These hearings create a culturally responsible hearing process, while facilitating a more accurate understanding of the offender for Board members. The Elder/Cultural Advisor is not involved in decision-making but provides information, asks the offender questions related to their healing path, and may provide ceremonial components at the hearing if requested by the offender.

## Overrepresentation in the Criminal Justice System

Indigenous and Black offenders are overrepresented in the criminal justice system. Indigenous offenders are also more likely to remain incarcerated longer, with lower rates of conditional release. Of the federal offender population on conditional release in the community: 58.6% are Caucasian; 21.1% are Indigenous; and 8.7% are Black.

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*Black people make up 3.5% of Canada's population but 9.8% of the federal inmate population.*

The five-year average day parole grant rates from 2016-17 to 2020-21 for Indigenous (72%) and Black offenders (73%) are largely consistent with those for Caucasian offenders (78%). Over the same period, grant rates for full parole are significantly lower for Indigenous offenders (26%) compared to Black offenders (40%) and Caucasian offenders (39%).

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*Indigenous people make up 4.9% of Canada's population but 30.4% of the federal inmate population.*

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## Objective of the Consultation

In light of these systemic inequalities, a joint PBC and CSC Committee on Diversity and Systemic Racism was established in July 2020 to consider issues of diversity of relevance to the PBC and CSC's mandates. As a first step, the Joint committee:

- identified what policies and programs were in place to specifically address the unique needs of Racialized offenders;
- reviewed policies and practices aimed at increasing the diversity of PBC and CSC employees;
- identified gaps in both; and
- made recommendations for potential next steps.

In reviewing existing reports and studies' recommendations, as referenced below, aimed at addressing the overrepresentation, the Joint Committee identified seven themes for action that served as the starting point for this consultation.

In May 2021, the PBC established an internal Working Group on Diversity and Systemic Racism to provide advice to the Chairperson on issues of diversity in general, with attention to anti-Black racism and Indigenous concerns in particular. **This consultation aims to validate and expand on the themes for action, with the goal of establishing an action plan to address systemic inequalities within the conditional release context and ensure that a framework is in place to track progress going forward.**

## Themes for Action

Multiple existing reports have identified systemic barriers and discriminatory practices in the criminal justice system, and made recommendations for improvement. The following reports and their recommendations were used to identify the common themes for action:

- *Statement by the Parliamentary Black Caucus issued June 17, 2020*
- *National Inquiry into Missing and Murdered Indigenous Women and Girls Calls for Justice*
- *Annual Reports of the Correctional Investigator*
- *Report of the Standing Committee on the Status of Women, A Call to Action: Reconciliation with Indigenous Women in the Federal Justice and Corrections Systems*
- *Report of the Standing Committee on Public Safety and National Security, Indigenous People in the Federal Correctional System*
- *Truth and Reconciliation Commission Calls to Action*
- *Fall Reports of the Auditor General of Canada- Preparing Indigenous Offenders for Release- Correctional Service of Canada*
- *Report of the Standing Committee on Human Rights, Human Rights of Federally-Sentenced Persons*

### Common Themes for Action

1. Consideration of systemic and background factors in the decision-making process
2. Expanding culturally appropriate programs, interventions and services for offenders
3. Ensuring staff and Board members are representative of the diversity of the Canadian population
4. Providing cultural training to staff and Board members
5. Increasing and improving engagement with communities and criminal justice partners
6. Improving and expanding data collection, research and reporting on Indigenous and Racialized offenders
7. Enhancing culturally appropriate victims services

## Current Parole Board of Canada Diversity Initiatives

The placemat on the following page provides an overview of current diversity initiatives that are actively underway at the PBC.



## Context

- A significant proportion of federally incarcerated offenders are Indigenous (30.4%) or Black (9.8%).
- Of the offender population on conditional release in the community: 58.6% are Caucasian; 21.1% are Indigenous; and 8.7% are Black.
- Five-year average day parole grant rates for Indigenous (72%) and Black offenders (73%) are largely consistent with those for Caucasian offenders (78%).
- Over the same period, grant rates for full parole are significantly lower for Indigenous offenders (26%) compared to Black (40%) and Caucasian (39%) offenders.

## Current Initiatives

### Board Member Representation

- The Parole Board of Canada (PBC) is a “community board”. The *Corrections and Conditional Release Act* (CCRA) requires that Board members be **sufficiently diverse in their backgrounds** to represent community values and views.
- Over the past several years, the PBC has increased the diversity of its Board members to better reflect the diversity of the Canadian population. Of the 81 current Board members, 54% are women, 14% are Indigenous and 12% are Visible Minority.
- The PBC has recently made significant efforts to recruit Board member candidates from diverse communities, resulting in 19.7% of applications from Visible Minorities; 8.9% from Indigenous peoples; 6% from the LGBTQ2+ community, and 50.8% from women.
- The PBC’s public servants are 79.8% are women, 4.9% are Indigenous, 4% are Persons with Disabilities and 14.4% are Visible Minority.

## Training

- The PBC continually reviews and updates Board member training to ensure the appropriate level of focus on cultural competency. The PBC is committed to **bias-free** and **evidence-based** decision-making. Board members receive training on conscious, unconscious and perceived bias.
- The PBC has also added a course on **overcoming unconscious bias** to its mandatory Learning Roadmap for all employees.
- At its Annual Training on Risk Assessment, sessions were presented to Board members and hearing officers on **"Offender Race and Bias"** and **"Offenders of African Descent"**.
- Training provided to Regional Communication Officers included sessions on **"Workplace Inclusion for Gender and Sexual Diversity"** and **"Active Anti-Oppressive Anti-Racist Grounding Principles for Culturally Appropriate Engagement with Victims"**
- The PBC also provides **Indigenous Cultural Awareness Training** to its Board members and staff.

## Policy

- The CCRA requires that policies adopted relating to conditional release reviews must **respect** gender, ethnic, cultural and linguistic differences and be **responsive** to the specific needs of women and Indigenous offenders, as well as to the needs of other groups with specific requirements.
- In addition to providing guidance on the consideration of **systemic and background factors** in conditional release decision-making, there are references to groups of offenders with specific requirements throughout the Decision-Making Policy Manual for Board Members, for example, when considering whether to impose release conditions or authorize leave privileges.
- The PBC offers **alternate models of hearings**, namely in-person Elder-Assisted Hearings and Community-Assisted Hearings. The objectives of these hearings are to provide a **culturally responsive process**, while adhering to the criteria for conditional release decision-making. Culturally adapted virtual hearings are also available when in-person hearings are not possible.

## Decision-Making

- In reviewing cases for conditional release, Board members use a **structured risk-assessment framework** to meet the diverse and complex needs of the offender population while ensuring the highest standard of public safety. The framework considers factors such as: the offender’s criminal, social and conditional release history, as well as case specific factors.
- Board members consider **systemic and background factors** that have played a part in bringing the offender into interaction with the criminal justice system.
- Systemic and background factors may include, but are not limited to: systemic discrimination, racism, family or community breakdown, unemployment, poverty, or lack of education and employment opportunities.
- Systemic and background factors must be considered in cases involving Indigenous offenders, but also apply to other groups of diverse offenders.
- Board members make decisions that are free of bias or prejudice based on race, age, national origin, gender, religion, sexual orientation, disability, socio-economic status, or other personal abilities, characteristics or beliefs.

## Outreach / In-reach

- **Outreach** is a corporate priority and significant progress has been made towards bolstering engagement with new and existing partners and stakeholders. The PBC has also expanded its community partnerships and advisory functions.
- The PBC conducts **in-reach with offenders** within institutions across Canada to explain the PBC’s mandate to offenders, to raise awareness of parole, and to prepare offenders for upcoming reviews. Targeted in-reach includes **vulnerable populations** such as Indigenous offenders, women offenders, and other racialized offenders.

## Gender Based Analysis Plus

- The PBC has a Gender-Based Analysis Plus (GBA+) Framework, ensuring that GBA+ is applied in all areas of the PBC’s policies, programs and initiatives. The framework guides the PBC in considering not only biological (sex) and socio-cultural (gender) differences, but also other factors such as race, ethnicity, religion, age, and mental or physical disability.

## Opportunities

- The PBC is supportive of broad or targeted legislative reforms, with the objective of **addressing the over-representation** of Black and Indigenous offenders in the criminal justice system and **improving accessibility to pardons**, while ensuring public safety and rehabilitation.
- A review of PBC decision-making policies is currently underway, to conclude in 2022. It will include consideration of **additional guidance** related to groups of offenders with specific requirements.
- The PBC convened a **Working Group on Women Offenders** in 2018 to review recent research, consult with stakeholders and partners, and identify opportunities to strengthen gender-responsive approaches. The resulting Women Offender Action Plan aims to improve the parole process for women.
- The PBC formed a committee on **Diversity and Systemic Racism** with the Correctional Service of Canada, to jointly review and address diversity issues. The committee identified common themes for action based on an extensive review of existing reports and recommendations. The PBC’s internal Working Group on Diversity and Systemic Racism is working to validate and build on these themes to develop an internal action plan to address systematic inequalities within the conditional release system.
- The PBC is participating in a government-wide **LGBTQ2S+ Action Plan** in the area of safety and justice.
- The PBC participates in many **internal and external working groups and committees**, such as the Chairperson’s Indigenous Circle, in order to remain informed and sensitive to the issues facing Indigenous offenders, and continues to explore new partnerships with groups representing various **vulnerable offender populations**.

# Stakeholder Questionnaire

The PBC's Working Group on Diversity and Systemic Racism is seeking feedback to validate and build on the themes for action to address systemic inequalities within the conditional release system.

The questionnaire is available to complete via: <https://www.surveymonkey.com/r/966YX3V>. The questionnaire should take approximately 30 minutes to finish. There is no limit on length of responses and draft responses will be saved on your device if you need to come back to it later. All responses are voluntary and will remain confidential and anonymous. Results will be reported as a whole and not linked to any individual or organization. PBC does not release any information that identifies an individual or group without prior consent, pursuant to the *Privacy Act*.

The questions included in the questionnaire are included below for information purposes only.

If you have any questions or comments about the questionnaire, please contact [gen-pbcpolicy@pbc-clcc.gc.ca](mailto:gen-pbcpolicy@pbc-clcc.gc.ca). Thank you in advance for your participation and willingness to share.

*Recognizing the uniqueness and differences of cultures, even within the same broader racial group, please specify the group(s) you are referencing in your response.*

1. What specific supports are the most important in the successful reintegration and rehabilitation of Indigenous, Black, and other Racialized offenders? How can we better leverage those supports during the conditional release process?
2. Are you aware of any community organizations offering programs or initiatives specifically designed for Indigenous, Black, and other Racialized individuals who have been involved with the criminal justice system? *If so, please provide information on the program or initiative, along with what has been working well for members of the community.*
3. What cultural/social history factors are important to consider in decision-making for Indigenous, Black, and other Racialized offenders? *As an example, the PBC already considers systemic and background factors, such as the impact of residential schools, substance use, discrimination, racism, family or community breakdown, and poverty when reviewing Indigenous offenders for conditional release.*
4. What additional supports at hearings may be required for Indigenous, Black, and other Racialized offenders? *Examples of existing supports include the right to be assisted by a person of their choice, the right to an interpreter at the hearing for offenders who do not have an adequate understanding of one of the official languages, and ability to request the attendance of Indigenous Elders/Cultural Advisors at the hearing.*
5. What is the best way to reach out to or communicate with Indigenous, Black, and other Racialized offenders to inform them about PBC programs and services available to them?

6. What specific supports may be required for Indigenous, Black, and other Racialized victims of crime? *An example of an existing support is having a PBC staff member accompany victims at hearings to answer questions and explain the process.* Do you have any recommendations for communicating with victims in a more culturally sensitive manner?
7. Do you have any suggestions on how PBC can increase the diversity of staff and Board members? What recruitment, retention, or engagement strategies could help?
8. Which webinars, training or on-the-job opportunities would you recommend for PBC staff and Board members on unconscious bias, or other relevant topics aimed at addressing systemic racism?
9. Drawing from your own experience and knowledge, what one change would provide the most meaningful impact for Indigenous, Black, and other Racialized offenders? *Please explain.*
10. Do you have any other recommendations or suggested areas for the PBC to explore further? Are there other contacts in your community we should include in future consultations? *If so, please identify their contact information.*

# Annex C: Questionnaire Results Summary

# Parole Board of Canada

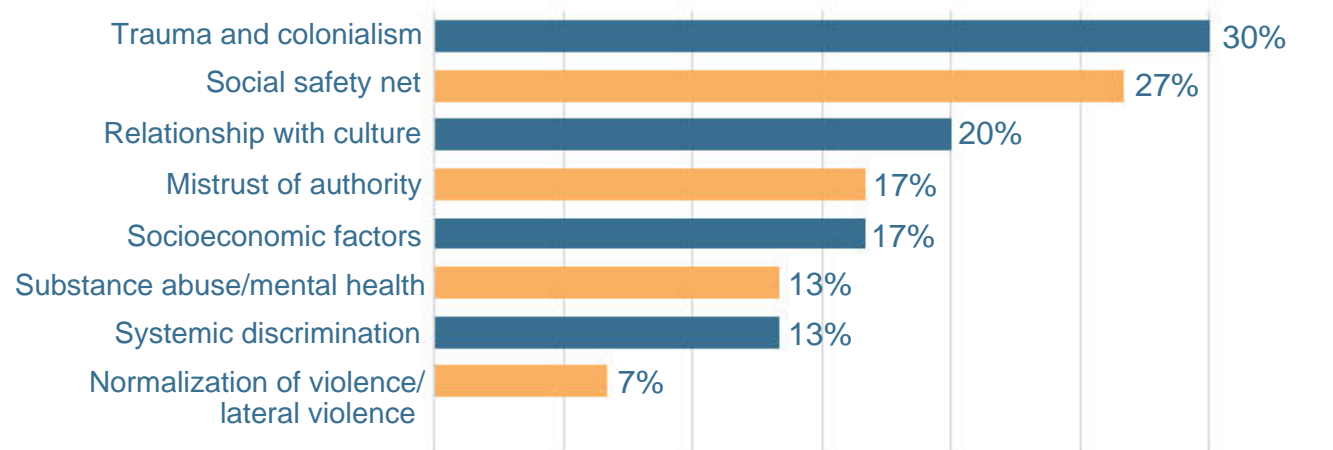
## Working Group on Diversity and Systemic Racism: Questionnaire Results

The goal of the Working Group on Diversity and Systemic Racism questionnaire was to gather input in order to understand how the criminal justice system, specifically in the area of conditional release, can be more responsive to the needs of Indigenous, Black, and other Racialized offenders with the goal of improving their experience and outcomes. The questionnaire was provided to various individuals, organizations, and academics with expertise in the area of criminal justice and diversity. In order to receive candid feedback, questionnaire responses are anonymous and results are reported as a whole. Results below identify the percentage of total respondents who identified a factor in their response.

### Identified Factors for Successful Reintegration and Rehabilitation of Indigenous, Black, and Other Racialized Offenders



### Identified Cultural/Social History Factors to be Considered in Decision-Making for Indigenous, Black, and Other Racialized Offenders



### Overarching Principles:

- Follow an intersectional and trauma-informed approach in decision-making and in addressing systemic racism
- Increase hearings held in communities or with community involvement
- Consider cultural differences in language to ensure understanding
- Broaden the use of cultural advisors and community advisory committees

### Recommendations to Improve Hearing Responsivity

1. Family and/or community participation at the hearing (27%). When possible, hold the hearing locally in the community. Focus on the offender moving forward and making reparations to themselves, victims, and their families and communities.
2. Offer cultural supports at hearings (23%), including Elders/Cultural Advisors for Indigenous offenders and Cultural Advisors for Black offenders. Clarify that this support does not limit the offender from an assistant at the hearing.
3. Include Racialized representation on the hearing panel (17%).
4. Facilitate interpreters at hearings and consider offering hearings in non-official languages (13%).
5. Prepare offenders in advance of hearings (13%).



### Recommendations to Support Indigenous, Black, and Other Racialized Victims of Crime

