



Decision-making about youth bail and detention admissions

The influence of
geographic location
and race

June 2021



Agenda



Setting the context



Key Findings

- Data Analysis
- Consultations



Future Directions

Setting the Context



Prior to 2003, Canada was the **leader** in the Western industrialized world for jailing youth

- The YCJA has been successful – **but not for all youth!**
- Existing research, though limited, highlights areas of concern
 - Bail process is taking longer, requiring more appearances
 - Youth are subjected to numerous, onerous bail conditions
 - Disparities in terms of gender and race

History of the YCJA

YCJA came into force

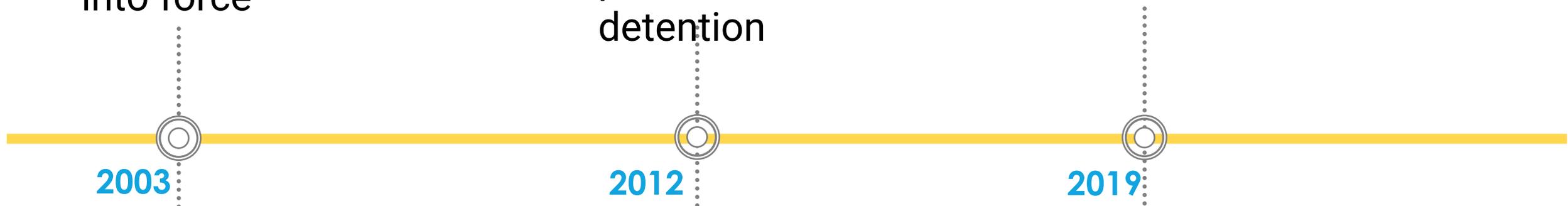
2003

Amendments to the YCJA section on pre-trial detention

2012

Amendments to the YCJA on release and conditions

2019

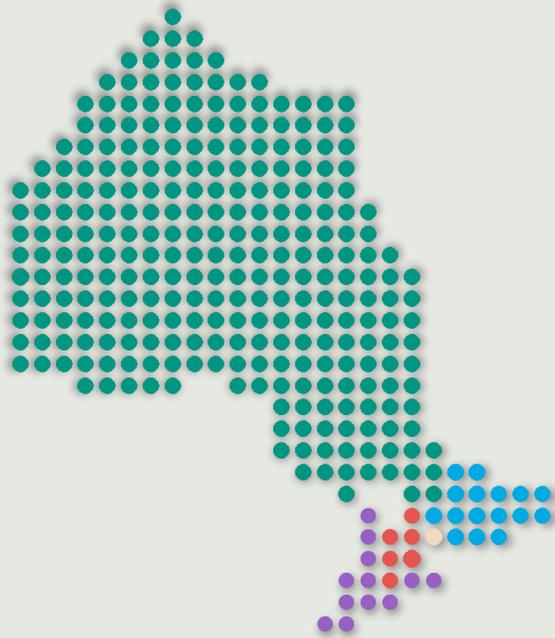


Setting the Context

- ✓ We have decreased charges and use of custody
- But more EJS/EJM programs needed across the province
- We are keeping kids out *formally* but not *informally*
- Bill C-75 – changes to bail since data collected

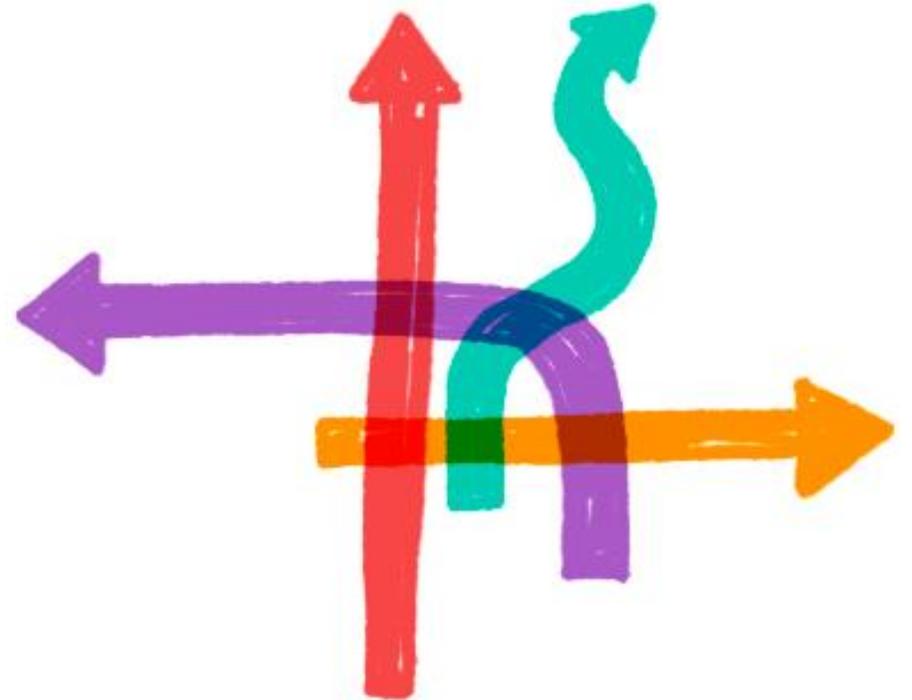
Scope of Today's Talk

- Can only make general conclusions about whole province, regions
- Cannot speak to courthouse- or municipal-level findings and details



Data Sources

- **MAG's ICON 2006-2017**
 - **159 301** youth cases
- **MCCSS Admissions 2006-2015**
 - **64 111** detention admissions
- **Online survey: 45** stakeholders
- **Think Tank Day: 49** stakeholders
- **Interviews: 15** youth with lived experience



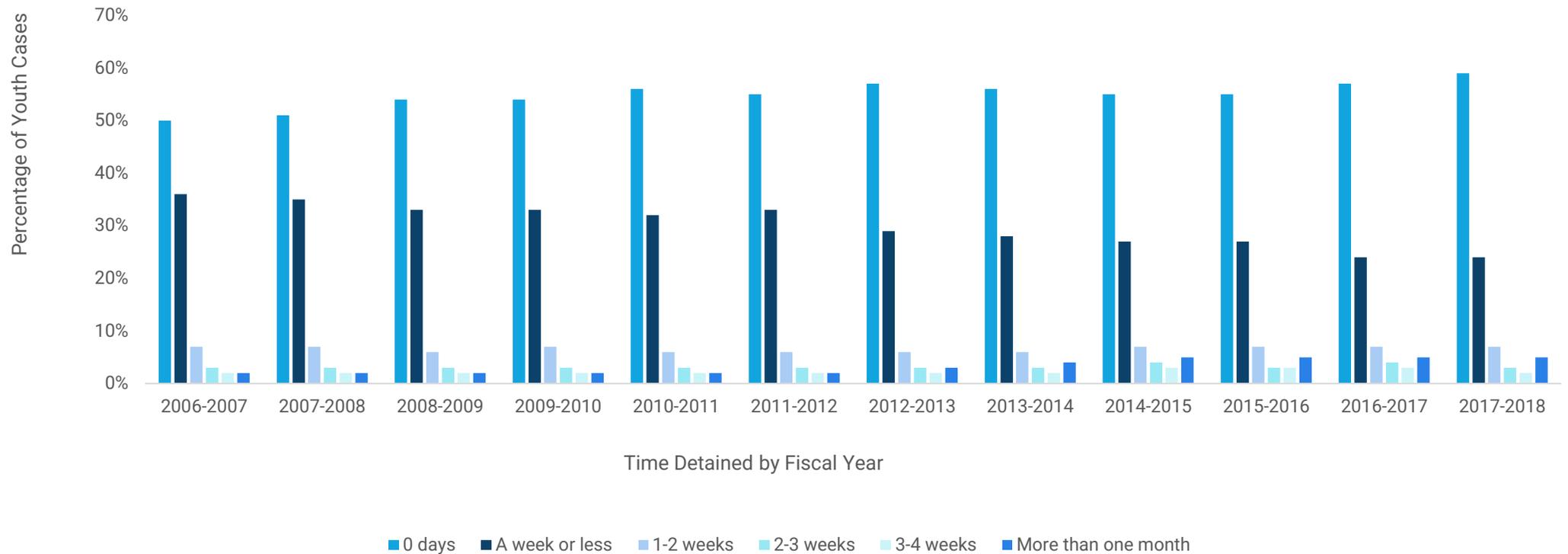
Key Findings



Time to a Bail Decision

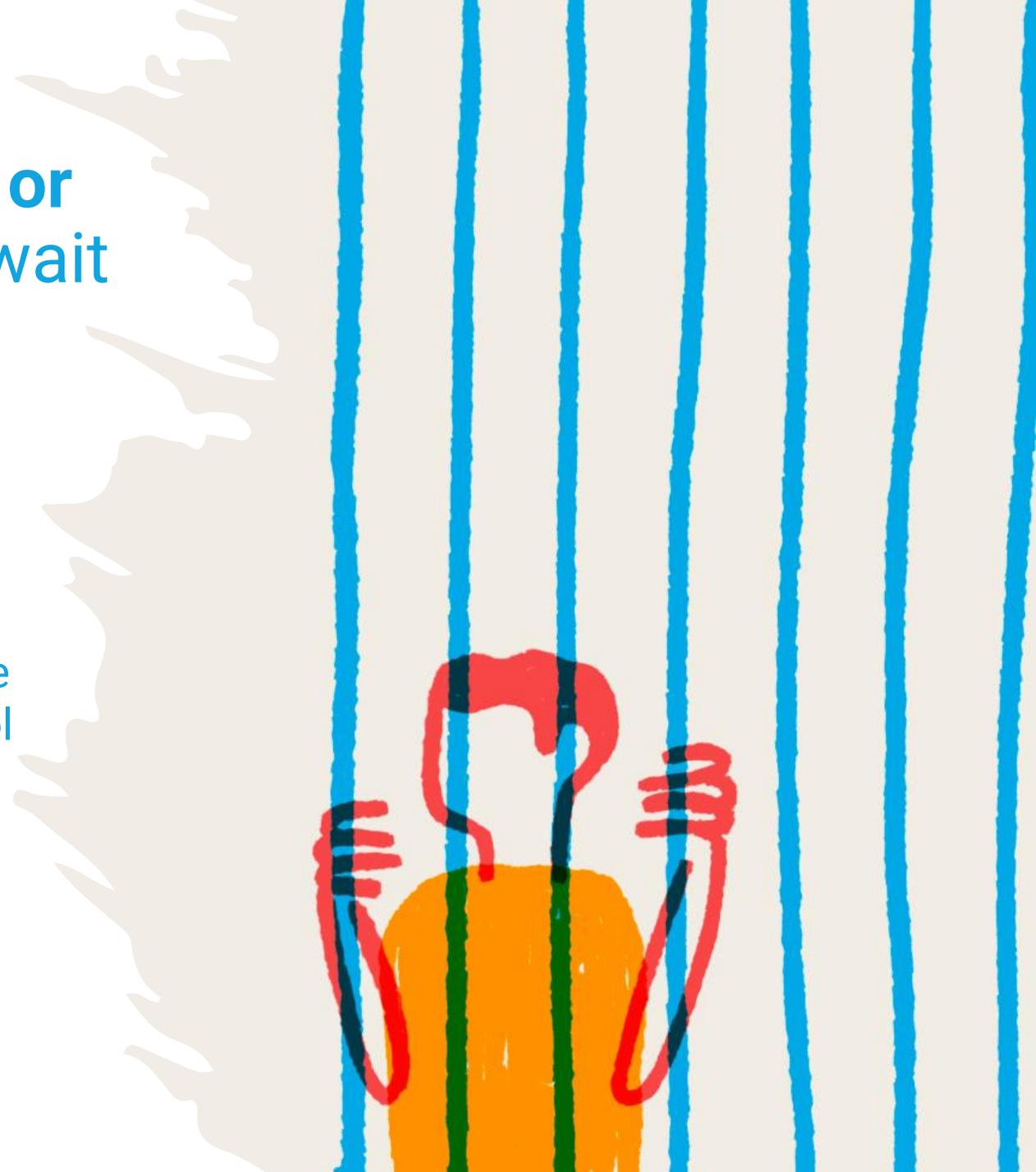
Although many are eventually released, a significant number of youth spend days, weeks or longer incarcerated while they wait for a decision on their bail.

Time Spent Awaiting a Decision on Bail in Ontario Youth Criminal Cases



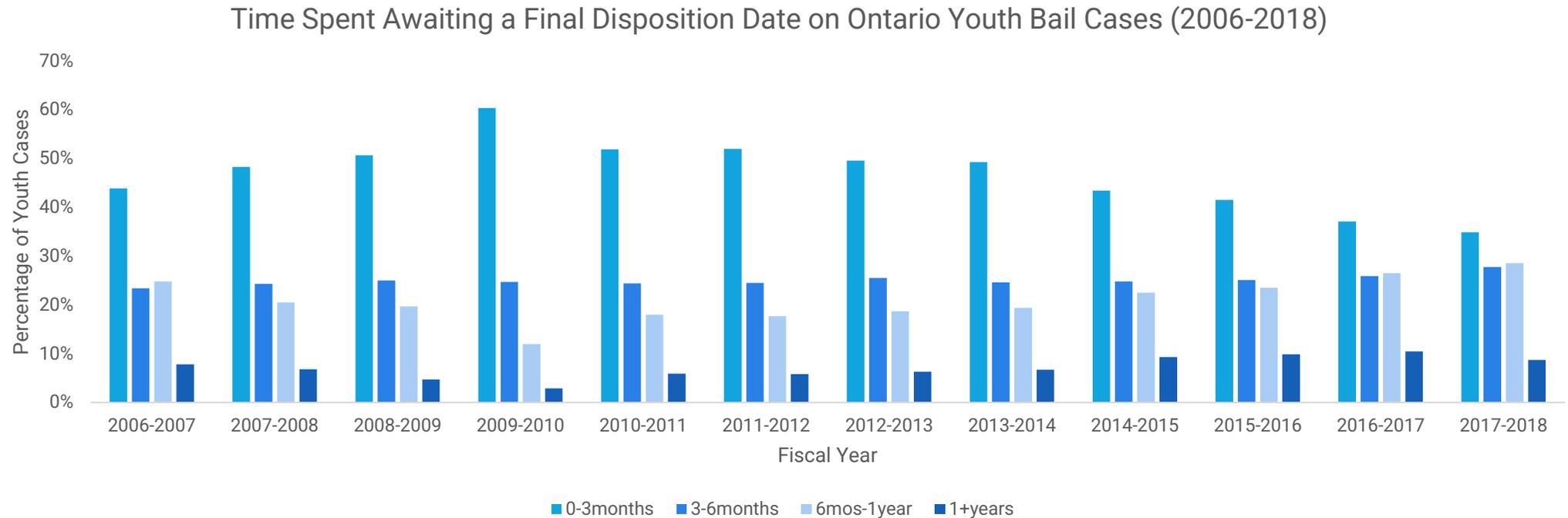
Many youth **spend days, weeks or longer incarcerated** while they wait for a decision on their bail.

“I was homeless, too, and I already had custody issues with my father. It was more on his end... he wasn't allowed to parent. They thought it was cool to throw me in with my dad, so they had to figure out custody issues first. I had nowhere to go, so that was my last resort.” -Youth



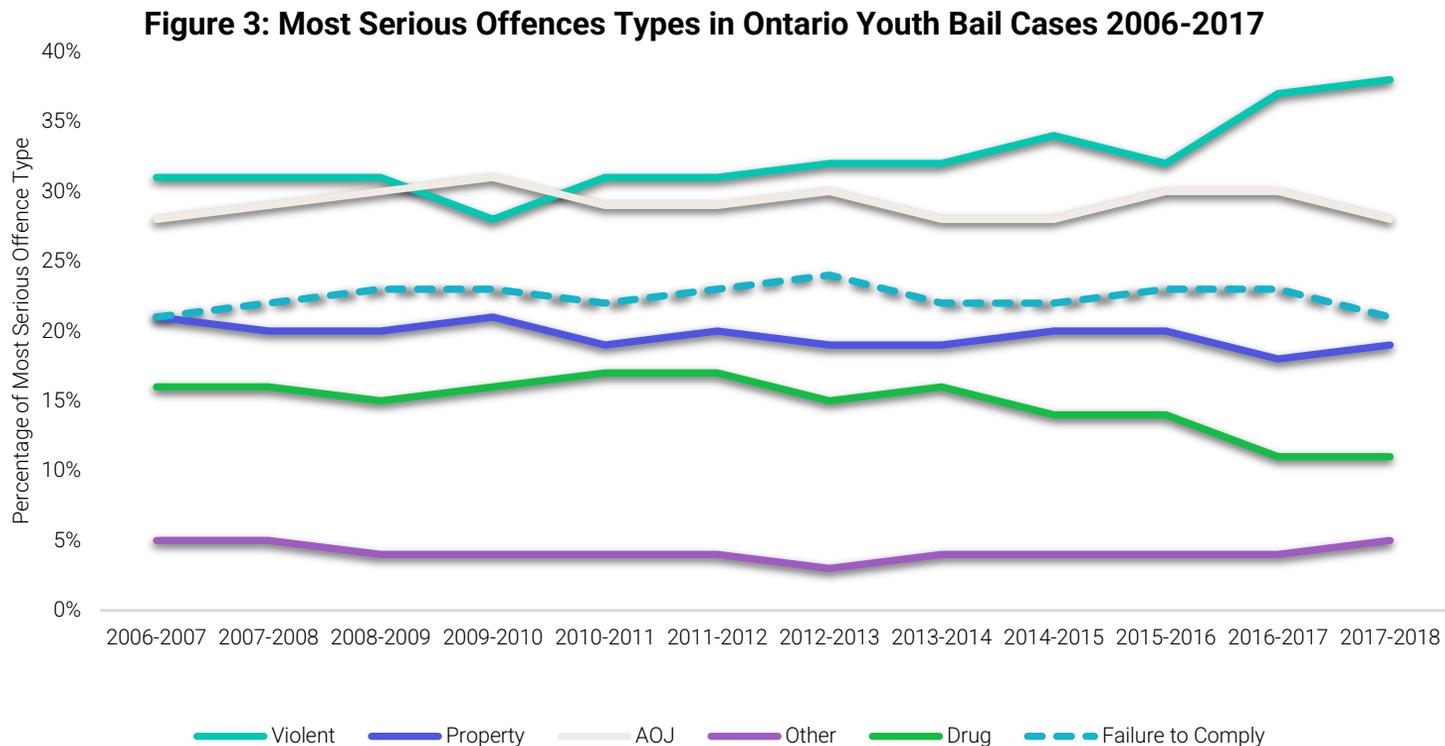
Time to a Final Disposition

Young people are waiting longer for their cases to be resolved, often resulting in further charges from breached conditions



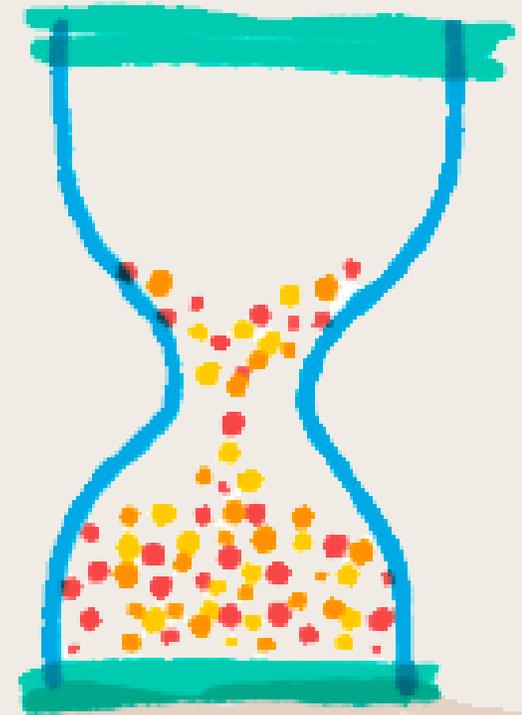
Administration of Justice (AOJ) Charges

- 29% of the MSO were AOJ
- Failure to comply charges made up 21% of the charges in 2017
- Over 40% of cases involved at least one AOJ charge

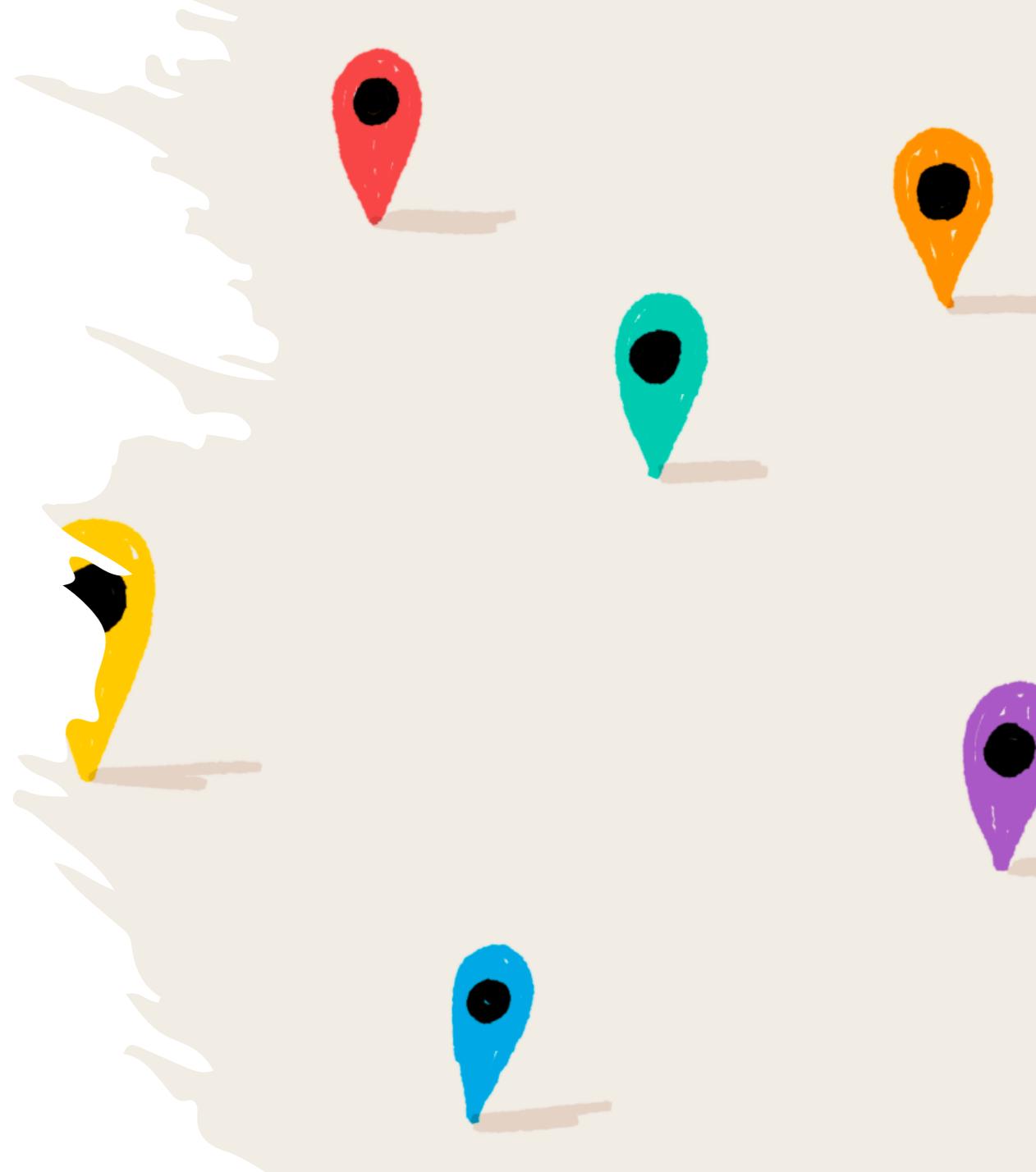


The **time** between their first **bail** appearance in court and when their case is finally resolved is getting **longer**.

“They gave me so many conditions that even breathing felt like breaching. They were very hard to follow in the way that I had so many. I couldn’t go to many places; I was confined to one area – and that’s what they wanted. At the time, I thought that they wanted this and wanted to send me back.” – Youth



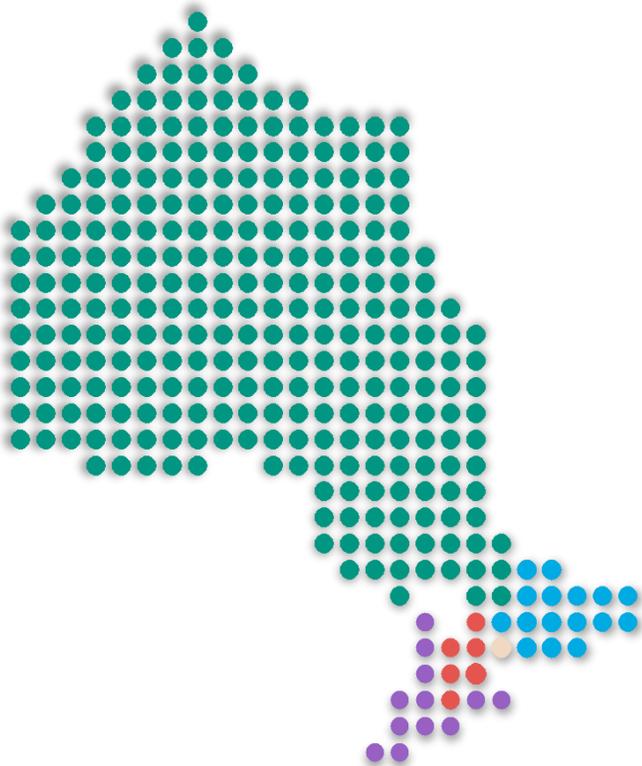
Regional differences suggest the YCJA may **not** be **consistently applied** across the province.



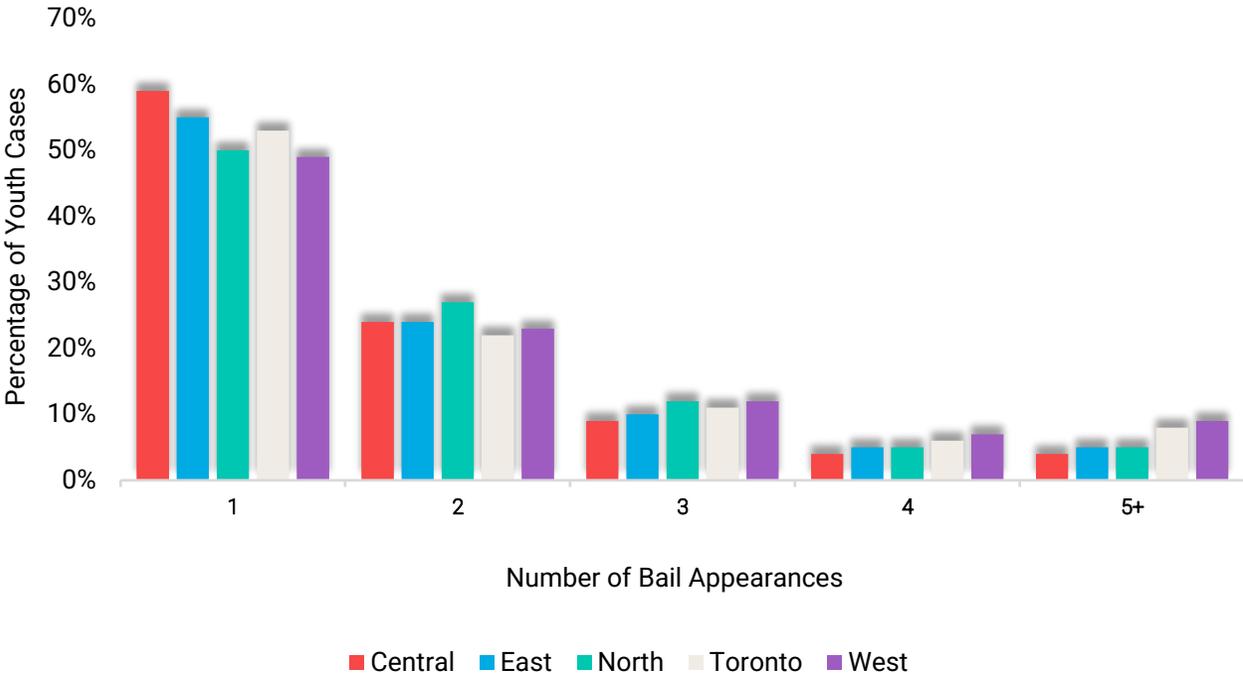
Regional Differences



Regional differences in outcomes suggest the YCJA may not be consistently applied across the province.



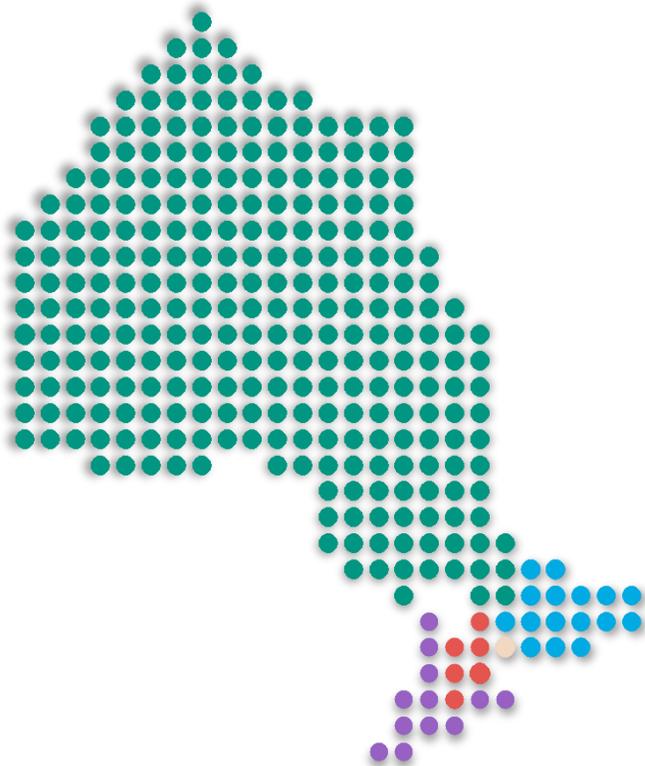
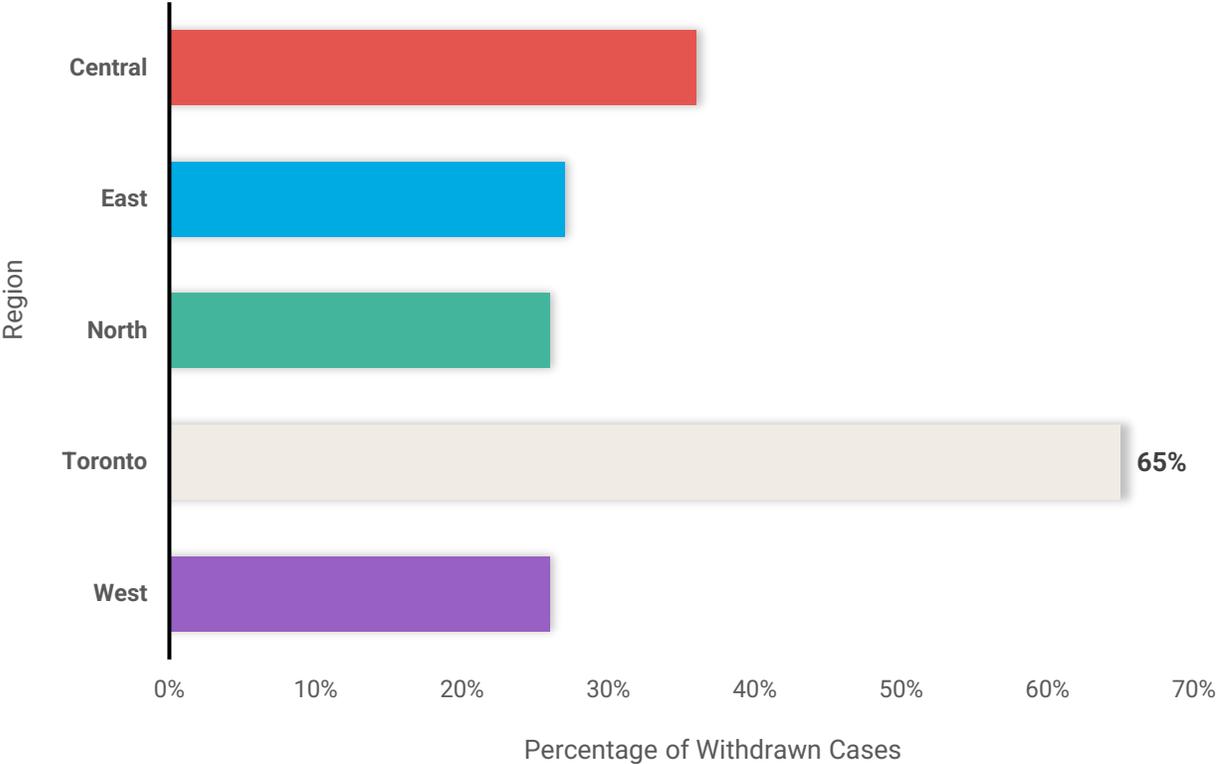
Number of Bail Appearances to Reach a Bail Decision in Ontario Youth Criminal Cases by Region (2006-2017)



Example: Withdrawing charges



Withdrawn Case Outcomes by Region in Ontario Youth Bail Cases (2006-2018)



**Black and
Indigenous youth are
overrepresented in
admissions to
detention.**

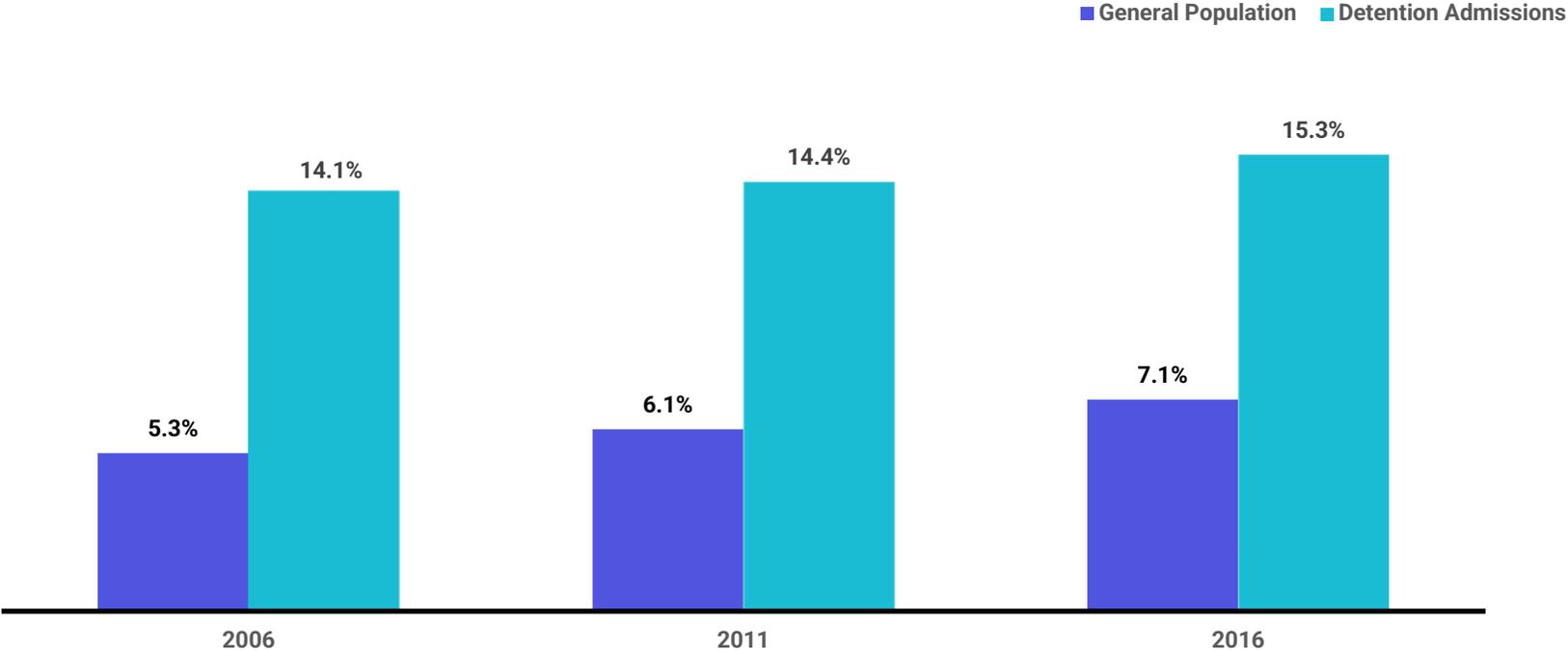


Detention Admissions – Black Youth



Black youth are overrepresented in admissions to pre-trial detention

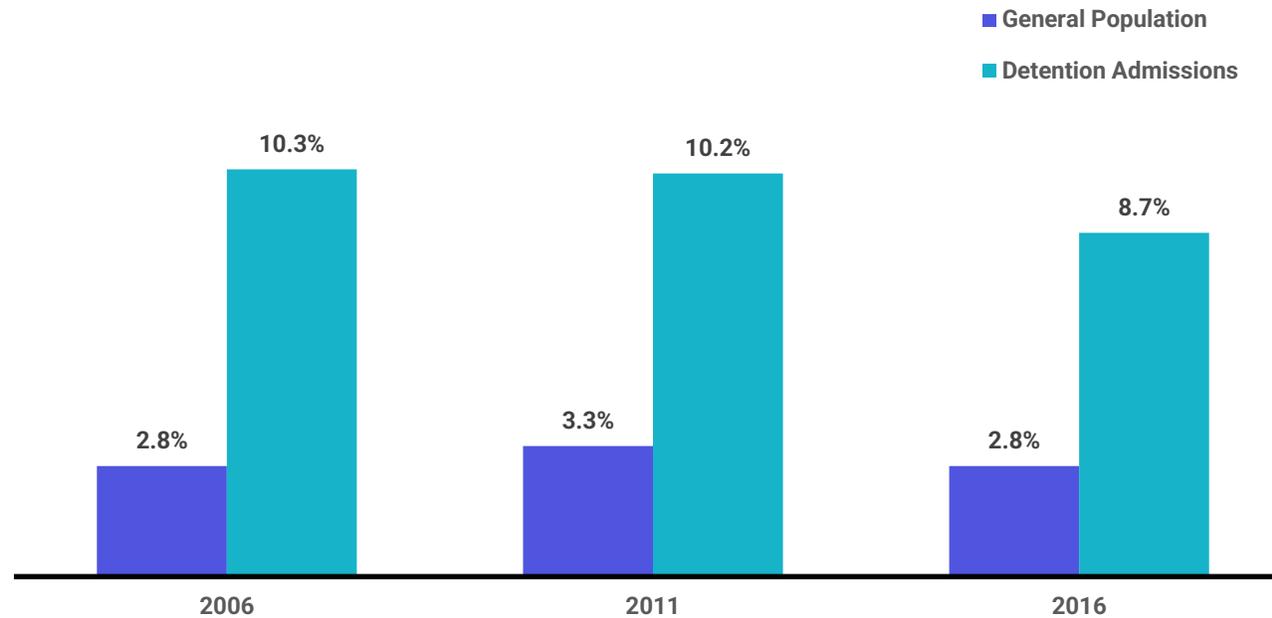
Admissions to Detention for Black Youth 2006-2016



Detention Admissions – Indigenous Youth

Indigenous youth are overrepresented in admissions to pre-trial detention

Admissions to Detention for Indigenous Youth 2006-2016



Consultation Findings

“The way in which bail works is an access to justice issue for marginalized young people”

- Stakeholder



Key themes from Consultations

- Experiences of arrest and incarceration
- Alternatives to the formal court process
- Release plans
- Bail Conditions
- Regional and demographic based variations
- Cross-system Involvement



Experiences of arrest and incarceration



“People go into jail and come out worse. You gain mental health challenges because of jail. And solitary confinement? You see the walls moving because you’ve been there so long.”

- Youth

Alternatives to the formal court process

“Its not like I was committing these serious crimes – it was stupid [stuff]. But they weren’t looking into why I was doing these crimes. Just, ‘here’s the punishment’ instead of ‘hey, maybe this kid’s not doing okay’”

- Youth



Release plans



"I was homeless, too, and I already had custody issues with my father. It was more on his end... he wasn't allowed to parent. They thought it was cool to throw me in with my dad, so they had to figure out custody issues first. I had nowhere to go, so that was my last resort."

- Youth

Bail conditions

“They gave me so many conditions that even breathing felt like breaching. They were very hard to follow in the way that I had so many. I couldn’t go to many places; I was confined to one area – and that’s what they wanted. At the time, I thought that they wanted this and wanted to send me back.”

- Youth



Regional and demographic based variations



"I remember one time I was gonna go to McDonald's at 6am. This lady... I didn't know her... well, apparently there was a scuffle with another group of natives.

I went to get my coffee and she stopped me. And every chance that I tried to talk to her, she's like, 'no, nobody wants you in there, it's not for you'. I went in anyways and came out. She was OPP and in uniform."

- Youth

Cross-system Involvement

[In relation to groups homes]

“[it’s] like going from one system to the next, they’re just setting [us] up for failure”

- Youth



Recommendations

- ❑ **Community based services and programs** to realize the potential of the YCJA
- ❑ Focused strategies to **address the overrepresentation of Black and Indigenous youth** in detention admissions
- ❑ Interventions to **prevent prolonged incarceration** and ensure access to services

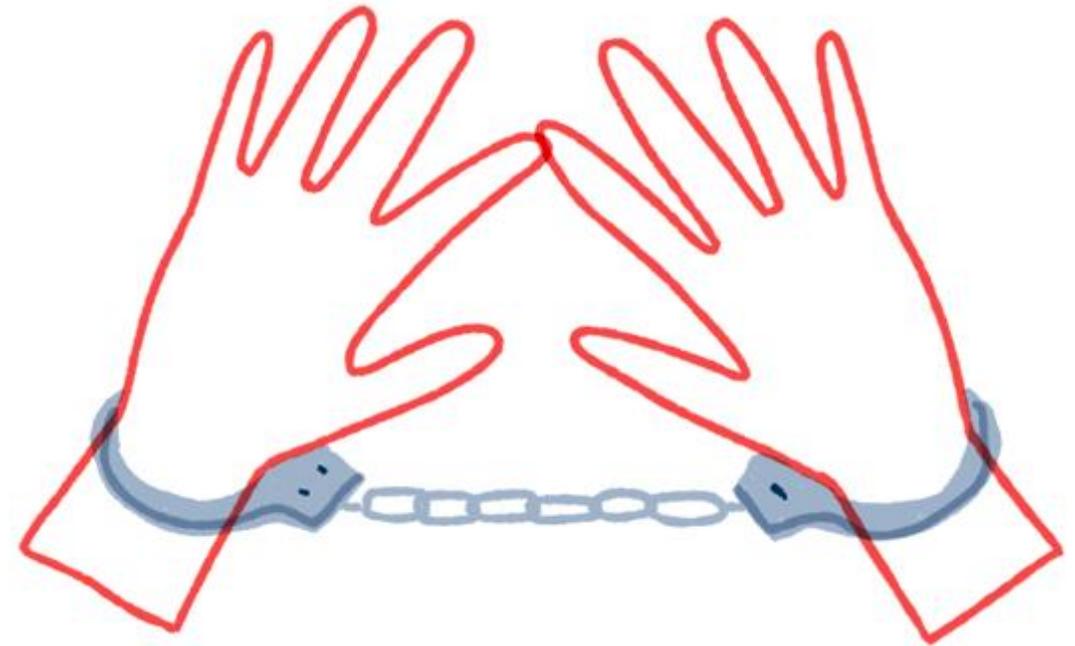


Future Directions

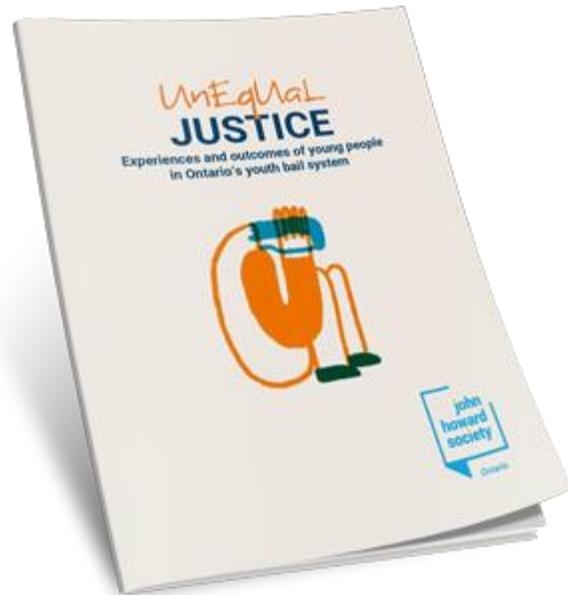
Design and development of **community-based services** and **programs across all regions** to realize the potential of the YCJA

Strong need for **systematic data collection** of race and gender identity

What **types of breaches**, and **when?**



Learn more...



<https://www.johnhoward.on.ca/unequaljustice/>

Thank you

Please feel free to get in touch

Safiyah Husein:

shusein@johnhoward.on.ca

Jessica Sutherland:

jesuther@yorku.ca



@jhsontario