

# Fair Treatment of African Nova Scotians and People of African Descent In Criminal Prosecutions (FTANS)

## Background

The Nova Scotia Public Prosecution Service recognizes the history of colonialism and segregation have led to structural and systemic racism and the present-day social problem of anti-Black racism for African Nova Scotians / People of African Descent, especially those whose ancestry is connected to the fifty-two (52) original land-based communities in Nova Scotia. A consequence of this legacy is the overrepresentation of African Nova Scotians / People of African Descent in the Nova Scotia criminal justice system.

This policy aims to address this by acknowledging the legal system's vital role in the construction and maintenance of anti-Black racism and thereby recognizes that Crown Attorneys have an important role in finding ways to ensure more equitable treatment of African Nova Scotians or People of African descent involved in criminal prosecutions.

## Policy Objectives

- To ensure fair and equitable treatment in the prosecution of offences.
- To help address overrepresentation in correctional centres by considering cultural context at all stages of the criminal justice process.
- To ensure Crown Attorneys conduct culturally competent prosecutions involving African Nova Scotians and People of African Descent accused, victims and witnesses.
- To provide Crown Attorneys with resources to properly and consistently identify and address issues of racism and discrimination within individual cases and the criminal justice system.
- To support and promote the continued use and development of Impact of Race and Culture Assessments (IRCAs) within the criminal justice system.

## Areas of Application

1. **Pre-Charge Advice to Police** – regarding race-based legal issues (e.g., allegations of racial profiling).
2. **Decision to Prosecute** – whether the presence of racism and discrimination within an individual case (implicit or explicit) impact upon the realistic prospect of conviction and public interest in proceeding.
3. **Public Incitement of Hatred** – consideration of distinct victimization due to racism and discrimination when analyzing the prospect of conviction and public interest.
4. **Restorative Justice** – consideration to reduce overrepresentation pre- or post-conviction.
5. **Arraignment** – request of defence counsel as to whether an accused wishes to self-identify to access relevant services, including those in relation to judicial interim release hearings and sentencing hearings.
6. **Bail** – consider an Impact of Race and Culture Assessment (IRCA); where appropriate seek culturally relevant alternatives; carefully consider all bail options that can safely release the accused into the community.
7. **Trial** – be mindful of cultural, religious, and linguistic differences, damaging stereotypes, and implicit and unconscious racial bias when questioning a witness or an accused, support a jury challenge for racial bias made by accused and consider making such a jury challenge when victim is African Nova Scotian/Person of African Descent.
8. **Sentencing** – consider whether an IRCA is required or exists from other files; ask the Court to take judicial notice of any systemic and background factors. While there needs to be a connection between the identified racism and the circumstances relied on to explain or mitigate the criminal conduct, proof of a causal link is not required.