

Submission to:

The Expert Mechanism to Advance Racial Justice and
Equality in Law Enforcement

In response to the call for inputs on:

Systemic racism against Africans and people of
African descent in the enforcement of drug laws and
policies

From: Canadian Drug Policy Coalition/

Coalition canadienne des politiques sur les drogues

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Executive Summary

Canada's drug laws and policies are inseparable from its legacy of settler colonialism and anti-Black racism. Today, the criminalisation of drug-related activities, drug law enforcement, and related bylaws, policies, and practices ("prohibition") disproportionately harm racialised populations, particularly where prohibition intersects with punitive approaches to poverty and homelessness. For Black people and people of African descent,* prohibition specifically contributes to: **(a) overincarceration and racial bias in correctional institutions; (b) discriminatory policing practices; (c) elevated rates of drug-related mortality and morbidity; and (d) erosion of the democratic process.** Additionally, there have historically been [minimal efforts](#) by Canadian governments to document how systemic anti-Black racism influences police encounters, policing outcomes, and drug-related health and social outcomes. To promote **justice and redress (e)**, The Canadian Drug Policy Coalition therefore urgently recommends that:

- 1. The federal government complete a review, led by an independent committee, of existing drug decriminalization policies throughout the world, that considers outcomes for Black populations*
- 2. The federal government, in cooperation with provincial and territorial (P/T) governments, make amendments to section 4 of the Controlled Drugs and Substances Act to decriminalize drug possession*
- 3. The federal government expunge all criminal records pertaining to drug possession*
- 4. P/T and municipal governments rescind laws that target people who use drugs (PWUD) who rely on public spaces for the necessities of life*
- 5. The federal and P/T governments amend human rights laws to protect people against discrimination on the bases of social status, including housing and drug use status*
- 6. The federal government, with input from P/T governments, develop a mandatory, comprehensive, representative, standardized national framework to collect and publish disaggregated race-based data pertaining to:*
 - police encounters, outcomes, and experiences within criminal-legal and correctional systems*

* The terms "Black people" and "people of African descent" are used interchangeably to reflect standard data collection practices in a Canadian context.

- *drug toxicity events, hospitalizations, illnesses, and injuries*
 - *investigations made by independent police oversight bodies*
7. *Federal and P/T compel policing services to collect and publish disaggregated data*
 8. *When a drug decriminalization policy is implemented, governments develop an equity-based framework to track outcomes and ensure equitable amnesty across all racial groups, including Black populations*
 9. *The federal government rebalance funding to address the social determinants of health, prioritising poverty reduction, affordable housing, and accessible health services, including newcomer health supports*
 10. *The federal government rescind the Strengthening Canada's Immigration System and Borders Act (C-12)*
 11. *The federal government displace the unregulated toxic supply with responsibly controlled access to drugs of known content and dosage and ensure equitable access across racial groups*
 12. *Meaningfully consult Black PWUD in implementing these recommendations and in development of all policies related to drug policy, harm reduction and healthcare services, and housing*

A. Overincarceration and racial bias in correctional institutions

Prohibition leads to significant disparities in rates of criminal-legal involvement along racial lines. In [2023/2024](#), where data are available, Black people accounted for 12.8% of the provincial custodial population despite only comprising 3.3% of the general adult population. The provincial incarceration rate of Black people was 32 adults per 10,000 population versus 8 adults per 10,000 population for the white population.

This overrepresentation is replicated in federal correctional institutions and can be linked directly to prohibition: Between 2007/8 and 2016/17, Black people comprised 9% of admissions to federal custody and 39% of those admitted were convicted of an offence punishable by a [mandatory minimum penalty \(MMP\)](#). During the same study period, 75% of all offences punishable by an MMP for which offenders were admitted to federal custody were drug offences (Ibid). Black people comprised 48% of all convictions for drug import/export offences (Ibid).

Even where a substance has been decriminalized, racial inequities persist: Black people are [approximately three times](#) more likely to have been convicted of a cannabis-related offence than white people since non-medical cannabis was legalized.

Once implicated in the court system, Black people continue to experience systematic racial bias. Black people accused of a crime face a greater likelihood of being detained before trial than do [white people](#); spend [longer](#) in pretrial detention; are less likely to be referred to diversion programs that would keep them out of the [criminal-legal system](#); and are more likely to face charges with a low probability of [conviction](#). Black inmates in federal custody are also overrepresented in maximum security, segregation (or solitary confinement) and use of [force incidents](#).

Given that any criminal legal involvement has enduring collateral consequences, and due to the relationship between prohibition and incarceration, we recommend that:

- 1. The federal government complete a review, led by an independent committee, of existing drug decriminalization policies throughout the world, that considers outcomes for Black populations*
- 2. The federal government, in cooperation with provincial and territorial (P/T) governments, make amendments to section 4 of the Controlled Drugs and Substances Act to decriminalize drug possession*
- 3. The federal government expunge all criminal records pertaining to drug possession*

B. Discriminatory policing practices

Even where interactions with police do not result in sustained criminal-legal involvement, prohibition is frequently used to justify racially targeted policing practices. An Aug. 2017 report of the United Nations [Working Group](#) of Experts on People of African Descent on its mission to Canada stated, “[t]here is clear evidence that racial profiling is endemic in the strategies and practices used by law enforcement.” Black people across the country are disproportionately subjected to police stop, question and [search activities](#). Rates of police surveillance are also significantly higher for Black people, particularly [Black men](#). Of all Black people 15 years of age and older in Canada, 7% indicated having been discriminated against by police – far higher than the 0.6% indicated by non-Indigenous, non-visible minority [people](#). Often, the [stated purpose](#) of street-level enforcement practices is to detect drug offences, irrespective of whether an offence is actually being committed.

In Ontario, the [only Canadian province](#) that mandates the collection of race-based policing data, Black people are also overrepresented in encounters with municipal policing services.

In Ottawa, Black drivers accounted for approximately [8.8%](#) of total traffic stops over a two-year period despite only comprising 4% of the total driving population. Between [2013-17](#) in Toronto, where Black people comprise approximately [9%](#) of the city's total population, Black people represented 28.8% of Special Investigations Unit (SIU) use of force cases, 36% of shootings, 61.5% of use of force cases that involved civilian death, and 70% of police shooting deaths. In 2020, [39%](#) of people involved in use of force incidents and 31% of people subjected to strip searches by the Toronto Police Services were Black. The Ontario Human Rights Commission has determined that: Black civilians are often stopped and detained without proper legal basis; experience unjustified searches during encounters; and, face unnecessary charges or arrests. These effects of biased policing are felt acutely among Black PWUD. During a dialogue held by CDPC with members of Toronto's African, Caribbean, and Black (ACB) community, participants consistently made the connection between their distinct and intensified experiences of discrimination, profiling, and excessive [surveillance and drug law enforcement](#).

Similarly, in Halifax, where the legacies of slavery and anti-Black racism are [especially](#) pronounced, a report by the [Nova Scotia Human Rights Commission](#) concluded that Black people are grossly overrepresented in police street check statistics. Racial differences in street checks could not be explained by criminal history or unique individuals (outliers) who are subjected to multiple street checks (Ibid). Black residents described how police routinely inquired about drug-related activities during street checks even when there was no cause or reasonable suspicion to do so.

Finally, numerous Canadian jurisdictions are increasingly passing punitive legislation at the intersection of drug use, public space, and homelessness that disproportionately impacts Black populations due to their overrepresentation in communities experiencing structurally-generated [poverty](#). Importantly, these laws target anyone *suspected* of consuming illegal drugs – a feature that is of special concern given well-documented patterns of racially biased policing. For example, in 2023, the British Columbia government attempted to [enact a law](#) empowering police to stop, search, fine, and displace people from public space if they were *suspected of recently* consuming drugs. The law was ultimately [repealed](#) after the Supreme Court of British Columbia [prevented it](#) from coming into force due to its potential for causing irreparable harm to socioeconomically marginalized PWUD. Ontario nonetheless passed a similar law – the [Safer Municipalities Act](#) – in 2025, whereby anyone who is *suspected* of consuming drugs in a public space can be displaced by police (including if they are living in a tent) and may face a \$10,000 fine and/or imprisonment for six months. [Civil society](#) organizations have [condemned](#) these laws, [noting](#) that they undermine the right to life and

security while raising concerns about discriminatory enforcement for Indigenous, Black and other racialized people.

Because biased policing practices exacerbate racial disparities and are frequently driven by drug law and public space enforcement and related surveillance, we recommend that:

- 4. P/T and municipal governments rescind laws that target people who use drugs (PWUD) who rely on public spaces for the necessities of life*
- 5. The federal and P/T governments amend human rights laws to protect people against discrimination on the bases of social status, including housing and drug use status*

Additionally, because a dearth of disaggregated race-based data limits the ability to develop tailored policy responses to mitigate racially discriminatory policing practices, we further recommend that:

- 6. The federal government, with input from P/T governments, develop a mandatory, comprehensive, representative, standardized national framework to collect and publish disaggregated race-based data pertaining to:*
 - police encounters, outcomes, and experiences within criminal-legal and correctional systems*
 - drug toxicity events, hospitalizations, illnesses, and injuries*
 - investigations made by independent police oversight bodies*
- 7. Federal and P/T compel policing services to collect and publish disaggregated data*
- 8. When a drug decriminalization policy is implemented, governments develop an equity-based framework to track outcomes and ensure equitable amnesty across all racial groups, including Black populations*

C. Elevated rates of drug-related mortality and morbidity

The uneven enforcement of drug laws and policies, the collateral consequences of criminal-legal involvement, and the presence of anti-Black racism in policing and other institutions, including healthcare, produce inequitable health and social outcomes for people of African descent – most saliently, these forces converge to produce disproportionately high rates of accidental overdose fatalities among Black people who have been criminalised.

While national data are not available, provincial data demonstrates that Black people are highly vulnerable to fatal overdoses associated with criminal-legal involvement: A [study](#) of all individuals who died of accidental opioid toxicity in Ontario between 1 July 2017 and 30 June 2021 concluded that: Black people died younger than white people; were more likely to die outside; and, were more likely to have prior experience of incarceration. This finding has been found elsewhere, with a study conducted between 2015-20 finding that Black individuals with a history of provincial incarceration in Ontario were [17.8 times](#) more likely to die from opioid toxicity than those without it. Approx. 0.9% of all Black people who experienced provincial incarceration during this period died from opioid toxicity (Ibid). These deaths are driven, in part, by correctional institutions [delaying or denying](#) access to evidence-based opioid agonist treatments (OAT). They are also likely attributable to one's already-elevated risk of overdose following periods of incarceration being exacerbated by systemic racism that sees Black people more commonly released from incarceration without adequate access to housing, culturally responsive healthcare, including harm reduction services, and social [supports](#).

To ameliorate drug-related morbidity and mortality among people of African descent, we recommend that:

9. The federal government rebalance funding to address the social determinants of health, prioritising poverty reduction, affordable housing, and accessible health services, including newcomer health supports

D. Erosion of democratic process

In Canada, prohibition is increasingly becoming embedded into the government's approach to immigration, refugee and asylum claims, with potentially grave consequences for people of African descent. This includes Bill C-12, the *Strengthening Canada's Immigration System and Borders Act*, which received Royal Assent on March 26, 2026 (C-12).

C-12 fuses public health and criminal-legal matters by expanding the federal government's capacity to criminalize, surveil, and militarize Canada's response to the international drug trade. However, C-12 goes well beyond what could be considered a reasonable or proportionate response to drug-related activities while simultaneously eroding legal protections and procedural rights for migrant communities. It received swift and strong condemnation from human rights experts due in large part to its explicit targeting of non-citizens, most of whom are not involved in any drug-related activities.

As just one example, C-12 creates a legislative bridge between drug interdiction, border control and immigration systems by permitting the Minister of Health to unilaterally prohibit activities involving new chemicals used in the production of drugs. It does so without appropriate oversight or safeguards to assure the reliability of information relied on by the Minister. This creates uncertainty for businesses using potentially-targeted chemicals and promotes increased drug-related racial profiling in border enforcement and immigration systems. Moreover, because drug-related convictions can render a person inadmissible or subject to removal, accelerated prohibition of new chemicals under C-12 means migrants, asylum seekers and temporary workers – many of whom may not be aware of their rights and lack access to grievance mechanisms - may risk both criminal conviction and removal by contravening new prohibitions they are unaware of. C-12's enhanced information sharing provisions also broaden state powers to surveil migrants in drug-related investigations without appropriate immigration and refugee or privacy protections. People of African descent risk being especially impacted by C-12's broad surveillance powers given their frequent recruitment into precarious [labour](#); overrepresentation among those with [non-permanent residency](#); and high levels of scrutiny and material deprivation when making [asylum claims](#).

This increased militarization of drug control systems, and the further merging of drug interdiction with the surveillance of immigrants, refugees, and asylum claimants, undermines Canada's international and domestic human rights obligations. It is misaligned with calls from international bodies such as the [UN Office of the High Commissioner for Human Rights \(OHCHR\)](#), the [UN working group on arbitrary detention](#), and [Amnesty International](#) to take seriously the severe impacts of prohibition for marginalized populations, particularly women, people of African descent and Indigenous Peoples. It also ignores recommendations from multiple domestic scientific and legal experts to address drug-related harms at their source while protecting human rights – that is, to displace the toxic, unregulated drug supply with a safe, predictable supply of legal substances. We therefore recommend that:

10. The federal government rescind the Strengthening Canada's Immigration System and Borders Act (C-12)

11. The federal government displace the unregulated toxic supply with responsibly controlled access to drugs of known content and dosage and ensure equitable access across racial groups

E. Pathways for justice and redress

In addition to the recommendations made above, there are steps the government should take to substantially reduce the risks of human rights violations and discrimination against Black PWUD and all people of African descent under prohibition. Most crucially, it should:

12. Meaningfully consult Black PWUD in implementing these recommendations and in development of all policies related to drug policy, harm reduction and healthcare services, and housing