To: Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement

From: BC Civil Liberties Association & Ubuntu-Mobilizing Central Alberta

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

Date: April 10, 2026

This joint submission responds to your call for input. It argues that Canada's drug laws and enforcement disproportionately harm Africans and people of African descent (often captured in Canadian data as "Black" or "persons of African descent") and reflect systemic anti-Black racism across policing, courts, corrections, border enforcement, and immigration. It shows how limited race-based data and data suppression obstruct accountability, yet available evidence still shows significant Black overrepresentation in street checks, drug charges, pre-trial detention, incarceration, and use of force. It situates these harms in Canada's history of colonialism, enslavement, and racialized drug control, and warns that discretion, tactical operations, and surveillance technologies can deepen inequality. It calls for stronger oversight; comprehensive race-disaggregated data; expungement of simple cannabis possession records; and investment in remedies such as Impact of Race and Culture Assessments.

Ubuntu – A Mobilizing Central Alberta is a community-driven organization that brings people together to foster collaboration, strengthen relationships, and address local challenges.

BC Civil Liberties Association works to promote, defend, sustain, and extend civil liberties and human rights in British Columbia and Canada. We recognize these rights as fundamental and inalienable.

Design and enforcement of drug laws and policies

Canada's main federal drug law, the *Controlled Drugs and Substances Act* (CDSA), criminalizes trafficking, import/export, and production, with potentially lengthy imprisonment depending on the substance and circumstances. Its breadth—and enforcement discretion—shape who is policed, charged, and imprisoned, and therefore how equality guarantees operate in practice.

Canada once imposed CDSA mandatory minimums for some offences, but they were increasingly challenged in constitutional litigation and reconsidered through law reform. In 2022, Parliament repealed all CDSA mandatory minimums and amended the Act to encourage diversion and alternatives for simple possession, reflecting a public-health approach rather than default criminalization.

Drug enforcement still relies heavily on discretionary policing (proactive stops, street checks/carding, consent searches, and intelligence-led targeting), which can intensify racial profiling. A Nova Scotia inquiry found stark Black overrepresentation in Halifax street checks: in two-thirds of census tracts, Black people were stopped at three times their population share (and higher in some areas). It described street checks as intrusive encounters that can involve explicit drug suspicion.

In Toronto, the Ontario Human Rights Commission (OHRC) found sharp racial disparities in drug charges, including cannabis possession. Although the data predate legalization, they show how discretionary enforcement can produce race-based disparities in drug criminalization.

Beyond street stops, scholarship and community documentation suggest no-knock and dynamic-entry raids—often linked to drug policing—carry serious risks of violence, trauma, and rights violations for racialized residents. A

Canadian qualitative study documented Black participants' experiences of no-knock raids and highlighted harms often missing from official data.

Use of force (lethal/less-lethal)

Use of force is a key human-rights risk in drug enforcement, especially in tactical entries and public-space encounters. Canada still lacks a single official national registry of police-involved deaths, as civil society notes. Independent data suggest racial disparities: one analysis found Black people overrepresented among police-involved deaths, despite race-data limits. Other reporting similarly points to disproportionate Black fatalities in some large urban police services.

Force-related risks also arise in custody. The Office of the Correctional Investigator (OCI) has repeatedly raised concerns about discriminatory treatment and proportionality, including whether race affected use-of-force responses involving Black prisoners.

Arrest, detention, bail, and parole

Racial disparities continue after arrest through pre-trial detention, jail conditions, and parole outcomes. A 2025 federal research synthesis found Black people are detained pre-trial more often and for longer than similarly accused White people, linking these outcomes to systemic racism across justice institutions.

In Ontario, a joint letter opposing tougher bail reforms warned they would disproportionately harm Black people and worsen overcrowded, punitive jail conditions. Parole data also show disparity: the Parole Board of Canada reported lower federal full-parole grant rates for Black offenders than for some other groups over multiple years.

Investigation, prosecution, and trial

Race-based national court data in Canada are improving but remain

incomplete. A study found Black accused persons overrepresented in adult criminal courts from 2016 to 2023 and reported longer median case-completion times for Black accused persons than for non-Black accused persons.

The study also found cases involving Black accused persons were more likely to end in withdrawal, dismissal, or discharge—consistent with concerns about overcharging and unequal exposure to the justice system. It did not isolate plea bargaining or quality of counsel, and noted that key stages (including bail and trials) could not be fully analyzed because of data gaps—underscoring the need for transparency.

Sentencing and penalties

Canada does not have the death penalty.

Bill C-5 repealed all CDSA mandatory minimums and promoted diversion for simple possession. This matters because mandatory minimums can turn biased arrest and charging decisions into near-automatic incarceration, limiting individualized and proportionate sentencing.

Impact of Race and Culture Assessments (IRCAs), used primarily for Black offenders, are pre-sentence reports that explain how racism and marginalization shaped a person's pathway into criminalization. IRCAs can help counter anti-Black bias at sentencing, but governments have not fully supported them with sustained funding and training beyond Ontario and Nova Scotia.

Post-conviction consequences

Drug convictions can trigger lasting barriers (employment, housing, mobility) and, for non-citizens, disproportionate immigration consequences.

Canada should expunge all criminal records for simple cannabis possession as a matter of racial justice and to remedy systemic anti-Black enforcement. OHRC Toronto data show anti-Black disparities in cannabis policing. Because cannabis is now legal, it is unjust to leave people with records that still harm employment, housing, mobility, and immigration status. Record suspensions are insufficient and revocable. Only expungement fully removes the continuing legal consequences of these convictions.

Immigration consequences can be severe. Under the *Immigration and Refugee Protection Act*, a conviction can trigger inadmissibility for serious criminality. Research on Canada's immigration detention system also finds limited race-disaggregated data and reports disproportionate detention of racialized people, especially Black men—underscoring unequal immigration impacts of criminalization for Black non-citizens.

Disparate impacts and race data

Police contact and drug criminalization

The strongest Canada-specific quantitative evidence of racial disparity in drug enforcement remains local rather than national.

In Halifax, the Nova Scotia Human Rights Commission found systemic Black overrepresentation in street checks across neighbourhoods. When tied to suspicious activity, intelligence, and other discretionary encounters, these practices create entry points for drug detection, searches, arrests, and additional administration-of-justice charges.

Criminal courts

A national study found Black people were 6.2% of accused persons while representing 3.7% of the adult population. Cases involving Black accused persons took longer to complete (median 219 vs. 165 days) and more often

ended in withdrawal, dismissal, or discharge—consistent with concerns about biased policing, overcharging, and unequal justice-system exposure.

Corrections: over-incarceration and force

Statistics Canada's overrepresentation indicators show persistent Black over-incarceration. In 2023/2024, Black people were 12.8% of the average daily custodial population in four reporting provinces (NS, ON, AB, BC) while comprising 3.3% of the adult population. The incarceration rate was 32 per 10,000 for Black adults versus 8 per 10,000 for White adults, with especially high rates for Black men.

In provincial jails, a Nova Scotia civil society report on prison isolation found stark anti-Black disparity: Black prisoners experienced longer average isolation and increasing overrepresentation in the longest isolation events (including a longest continuous isolation period of 303 days imposed on a Black prisoner). It linked isolation beyond 15 days to constitutional breaches, including the right to be free from cruel and unusual punishment as recognized under section 12.

In federal custody, the OCI has documented sharp increases and substantial overrepresentation of Black prisoners, alongside systemic concerns about discipline, involuntary transfers, segregation, and parole barriers.

Lethal force and deaths in custody

Civil society data show persistent racial disparities in police-involved deaths, though race identification is incomplete in many cases. Available analysis indicates Black people are overrepresented among police-involved deaths relative to their population share. The absence of a single official national tracker remains a major barrier to oversight and accountability.

Border enforcement and discrimination at ports of entry

A Canada Border Services Agency (CBSA) evaluation of traveller processing

reported that one-quarter of frontline respondents had witnessed a colleague discriminate against a traveller in the prior two years, and most believed the discrimination involved race or national/ethnic origin. It also found CBSA often cannot substantiate or refute complaints because of limited data and analytic capacity—an accountability gap.

Intersectional impacts

Recent national data permit some intersectional analysis. Black men face much higher incarceration rates than Black women, although both are overrepresented relative to White comparators. In adult criminal courts, 81% of Black accused persons were men and about 19% were women.

Research in Ontario by Kanika Samuels-Wortley confirms that police discretion is exercised to disproportionately charge Black youth. Among youth caught with cannabis, the most common youth charge, police are more likely to charge Black males and less likely to give them a caution compared to youth from other racial backgrounds.

For 2SLGBTQ+ (Two-Spirit, Lesbian, Gay, Bisexual, Transgender, Queer and additional sexual and gender-diverse identities) persons, some agency documentation emphasizes the importance of intersectional analysis while also identifying major data gaps. The CBSA evaluation notes that the agency does not collect data on diverse gender identities and lacks sufficient data for robust GBA+ analysis of smaller subpopulations. Federal Black justice strategy materials likewise stress that Black people experience discrimination through intersecting identities, including sexual orientation, while acknowledging uneven data capacity across institutions.

Root causes of systemic racism in drug policy enforcement

Colonialism, enslavement, and racial control

Legal history links early Canadian drug prohibitions to the aftermath of racist

violence. This history established a template of drugs framed as a racialized threat and met with policing and punitive control.

In Policing Black Lives, Robyn Maynard argues Canada's "war on drugs" was also a political strategy that stigmatizes Black communities as threats and justified surveillance and punitive control instead of social investment. She situates anti-Black racism within Canada's foundations in slavery, Indigenous genocide, and settler colonialism and links policing institutions to ongoing colonial violence, including the RCMP's historic role in Indigenous dispossession.

International drug policy

Canada's drug law framework is strongly shaped by international drug control conventions. Domestically, the CDSA implements the prohibition model through criminal offences for conduct outside authorized medical and scientific channels.

Because international drug control developed alongside a war-on-drugs paradigm, domestic enforcement can inherit punitive logic and suspicion-led policing, creating predictable conflict with equality and non-discrimination obligations where racial profiling exists.

Drivers of rights violations in enforcement

Punitive resurgence pressures

After a long-term decline (accelerated by cannabis legalization), police-reported drug crime rose again from 2023 to 2024, including possession, trafficking, and import/export. Resurgent "tough on drugs" pressure risks expanding enforcement without safeguards against profiling. Even with diversion guidance for simple possession, most cleared incidents still result in charges—making frontline discretion decisive.

Militarization and tactical raids

Canadian research suggests militarized policing can intensify harm and racial disparity. Studies of no-knock raids, often linked to drug warrants, document trauma and heightened rights-violation risks for racialized residents, including Black participants. Research on police militarization and tactical unit encounters likewise links tactical deployment to racial disparity and legitimacy harms.

Surveillance, predictive policing, and algorithmic tools

Algorithmic and surveillance tools can entrench past bias because they rely on police data shaped by unequal contact patterns. A Citizen Lab analysis warns these tools may reinforce systemic bias without safeguards. The Canadian Human Rights Commission similarly cautions about invasive surveillance of Black people, including risks from facial recognition.

Despite these warnings, Canada has not legally restricted law-enforcement use of these tools, and their adoption and expansion continue with limited civilian oversight.

Canada's National Security Intelligence Review Agency (NSIRA) warned that "pilot projects" can expand state surveillance without legal scrutiny. Its review of CBSA's Faces-on-the-Move found the agency collected travellers' biometrics using facial recognition before confirming legal authority.

Accountability and redress

Oversight effectiveness

Border enforcement oversight gap

A major barrier to remedies in border-based drug enforcement is the absence of a fully operational independent civilian body for CBSA complaints and systemic review. CBSA officers exercise sweeping arrest, detention, and

search powers and have long lacked independent civilian oversight for misconduct, deaths in custody, or systemic issues. Although a law passed in 2024 would establish a review body, it is still not in force.

Threat to limit access to Canadian Human Rights Tribunal (CHRT)

Canada's Attorney General is reported to be asking the Federal Court to overturn *Woodgate v. RCMP (2026 CHRT 15)* and argue that discrimination arising in an RCMP investigation should not be addressed through the CHRT, but instead through the CRCC or courts. This would narrow access to a specialized human-rights forum and redirect complainants to processes without equivalent adjudication of racial discrimination.

This is especially concerning because the Civilian Review and Complaints Commission (CRCC) has had key decision-making positions vacant for over a year; its own reporting links delays to those vacancies. The *RCMP Act* also leaves complaint authority with the RCMP while making CRCC findings non-binding.

This matters because RCMP units engage in operations where allegations may include excessive force, illegal tactics, discrimination, and Charter breaches, all of which are central to preventing discriminatory drug policing.

Municipal police oversight

The collapse of the Vancouver Police Board's relationship with its African Descent Advisory Committee underscores a deeper oversight failure: Black community members were invited into a consultative process that, by their account, did not meaningfully shape decisions, while even a Board member resigned over the lack of a proper vote, the stifling of debate, and the Board's disregard of anti-racism commitments. Far from ensuring accountability, the

oversight process appears to have marginalized the very community it was supposed to engage.

Remedies and reparations

Courts and tribunals remain important accountability forums. In *R. v. Le* (2019), the Supreme Court recognized that race and policing context matter when assessing arbitrary detention and Charter compliance. In *Procureur général du Québec c. Luamba*, 2024 QCCA 1387, the Quebec Court of Appeal held that traffic stops conducted without required grounds outside an organized program amount to racial profiling and violate constitutional and human-rights protections.

In corrections, constitutional litigation and international standards have shaped accountability for solitary confinement. The UN Mandela Rules define prolonged solitary confinement as more than 15 consecutive days and associate it with serious human rights risks; Canadian litigation and monitoring have repeatedly relied on these standards to challenge isolation practices.

Non-judicial oversight can also support accountability. The Privacy Commissioner's CBSA investigation found that the agency contravened privacy law in its digital-device search practices and recommended legislative reform.