Canadian Association of Chiefs of Police
Association canadienne des chefs de police

March 24, 2025

Commissioner Kevin Brosseau
Commissioner of Canada's Fight Against Fentanyl
Privy Council Office
Office of the National Security and Intelligence Advisor to the Prime Minister
59 Sparks Street
Ottawa, Ontario K1A 0A3

Email: kevin.brosseau@pco-bcp.gc.ca

Dear Commissioner Brosseau:

I am writing on behalf of the Canadian Association of Chiefs of Police (CACP) to express gratitude for co-hosting the Rapid Working Group Discussion on Fentanyl that took place on Monday, February 24, 2025.

Further to our discussions on February 24th, the below recommendations have been put together with the goal of combatting the illegal drug trade at every stage. This includes law amendments, stopping the flow of precursors, disrupting clandestine laboratories, and dismantling distribution networks. The intent of this letter is to request the assistance of Public Safety Canada to help implement the following police recommendations:

1. **Modernize legislation to provide the police with lawful access**

   Canada's legislation related to lawful access techniques and protections is significantly outdated and urgently needs to be revised to align with the modern technological landscape and mediums used for communication. Please refer to CACP resolution 2023-01 and resolution 2018-02 which call for the development of a National Lawful Access Strategy and a bilateral data-sharing agreement with the United States of America to modernize the ability of the police to lawfully access private communications and digital data. In Canada, there is currently no comprehensive legislative or regulatory mechanism that obligates communications service providers (CSPs) to develop or deploy systems that provide intercept capabilities. This remains true even if law enforcement or national security officials have obtained legal authorization. Law enforcement requires the assistance of specialized CSP personnel to develop lawful access capabilities, facilitate the provisioning of interception, and troubleshoot issues. Due to the absence of legislated obligations, CSPs decide whether or not to agree to install technical infrastructure to enable interception. The CSPs also look to the Government to fund and maintain this. Lawful access capabilities, the process by which data is requested/obtained from CSPs, and the associated fees charged for technical assistance, are not standardized and vary greatly between providers. Furthermore, the protection of specialized lawful interception techniques is urgently required to safeguard their continued use and to ensure private sector partners have confidence their technologies are protected and not subject to being compromised. Sections 37 and 38 of the *Canada Evidence Act* are relied upon to achieve these goals. Both approaches have complications that can adversely impact outcomes in court. Consideration should be given to updating these sections to best protect our critical interception techniques and international relationships.

2. Overcome barriers to effective money laundering investigations in Canada

It is essential to address critical gaps in Canada's response to money laundering and financial crime investigations, particularly as they relate to securing the financial system and disrupting the laundering of profits from fentanyl trafficking. Law enforcement in Canada faces significant challenges in conducting these investigations, including by far the slowest response times to requests from financial institutions for financial data and evidence among all Five Eyes partners, which severely hampers the speed and efficiency of investigations within the strict timelines imposed by case law, such as the Supreme Court ***R. v. Jordan*** decision. Additionally, archaic, overly complex, and cumbersome processes for obtaining financial information through judicial authorizations require urgent legislative reform to contemporize and streamline access with modernized *Criminal Code* and *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*. Compared to our Five Eyes counterparts, Canadian law enforcement also contends with the most restrictive and limited access to Financial Intelligence Unit (FINTRAC) data, posing a significant barrier to rapidly securing key information. All other Five Eyes countries have direct access to this information which is a substantial benefit. Compounding these issues, Canada's stringent privacy laws inhibit effective information sharing — both between private entities and from private to public sectors — stifling collaboration between banks and law enforcement. Enhancing information-sharing frameworks would significantly bolster disruption efforts targeting fentanyl trafficking networks and the laundering of their illicit profits.

3. Enhance Public Prosecutions Service Canada (PPSC) prosecutorial capacity and policy regarding the prosecution of simple drug possession charges under the CDSA

The CACP is advocating for appropriate levels of PPSC prosecutorial resourcing to support police enforcement efforts. In addition, the CACP is calling for a re-examination of the provisions of Bill C-5, as noted below, to allow police to maintain independence and discretionary powers in the laying/requesting and proceeding of charges for simple possession under Section 4(1) of the CDSA.

Significant policy and legislative changes have influenced the prosecution of simple drug possession in Canada. On August 17, 2020, the PPSC introduced a policy directing prosecutors to avoid pursuing simple possession charges unless there was a clear risk to public safety. This shift was reinforced by legislative amendments introduced through Bill C-5, enacted on November 17, 2022, which imposed a legal obligation on both police and prosecutors to prioritize alternative measures before proceeding with criminal charges. While these changes have resulted in fewer individuals facing criminal charges for possession of small quantities of drugs for personal use, the ongoing opioid crisis and public frustration remain significant concerns, particularly in relation to public safety outcomes.

4. Modernize Canada's justice system with regard to the Supreme Court's decision in *R. v. Jordan*

In *R. v. Jordan* (2016), the Supreme Court of Canada established a presumptive 30-month limit for cases within the Superior Court, beyond which delays from the charge to the trial's conclusion are considered unreasonable, unless justified by exceptional circumstances. The volume of digital evidence produced in contemporary prosecutions and the complexities of managing this evidence were never contemplated in the Jordan decision. The CACP is calling upon the federal government for legislative relief from the artificial and arbitrary Jordan timelines. Note: The CACP and the Director of Public Prosecutions and Deputy Attorney General of Canada, Mr. George Dolhai, have engaged in dialogue, mutually recognizing the challenges this puts on police and prosecution.

5. Implement policy and legislative changes to restrict precursor importation and sales

The CACP has been advocating for the examination of precursor control regulations since 2019 (refer to CACP resolution 2019-01). While production of methamphetamine was the concern at that time, the key issues remain the same when it comes to fentanyl – the existing *Controlled Drugs and Substances Act* (CDSA) and Precursor Control Regulations do not comprehensively regulate and prohibit the importation, exportation, possession, sale, and use of precursor chemicals for illicit purposes. As per CACP resolution 2019-01, the CACP urges the Government of Canada, specifically Public Safety Canada and Health Canada, in concert with the CACP, to conduct a review of existing CDSA and associated regulations to identify gaps and potential amendments that will reduce fentanyl manufacturing and thereby increase public safety.

6. Implement regulation and policy changes to facilitate information sharing between Health Canada and law enforcement

There is a need for a structured mechanism for Health Canada to share or report anomalies with law enforcement. We are recommending that a mutually beneficial formal information sharing process be established between Health Canada and law enforcement to identify license/permit holders who may be operating outside the parameters set by their licenses/permits. This could better support Heath Canada in revoking licenses and permits to shippers involved in suspected nefarious transactions and would help identify activities to law enforcement that may warrant additional investigation.

7. Amend the *Canada Post Corporation Act* to allow the police to conduct judicially authorized searches and seizures of parcels and letters that are in the course of post before they make their way to their intended destination

Canadian police leaders are concerned that fentanyl is being sent through the mail system with impunity from judicially authorized search or seizure. The CACP has been advocating for this legislative change since 2015, when members adopted CACP resolution 2015-08. Under the *Canada Post Corporation Act*, police in Canada cannot lawfully search, seize, detain or retain Canada Post packages. The goal of this proposed change is to help intercept contraband, firearms, alcohol, counterfeit items and dangerous drugs, including fentanyl and other opioids. It is important to note that there are no restrictions to police searches and seizures involving private courier services. We are requesting that the government support the re-tabling or table a new Bill similar to Bill S-256 – *Canadian Postal Safety Act* which proposes to amend the *Canada Post Corporation Act* to designate certain statutes under which items in the course of post may be seized, detained or retained. This Bill makes related amendments to the *Criminal Code*, the *Controlled Drugs and Substances Act* and the *Cannabis Act.*

8. Strengthen security and monitoring mechanisms at Canada's ports, airports as well as regular and irregular points of entry

Organized crime groups (OCGs) have infiltrated Canada's ports, airports as well as regular and irregular points of entry. The absence of robust security clearance processes for persons working at these points of entry amplifies the vulnerability of these transportation hubs to OCG infiltration and movement of illegal commodities through these locations. The CACP is advocating for a system of security clearance requirements for all persons working at these locations. Further, the CACP is advocating for increased capacity of inspections and verifications (outgoing and incoming) required at cargo ports, non-towered airports and airstrips, as well as other non-monitored and irregular points of entry. It is also recommended that the Canada Border Services Agency's (CBSA) Free and Secure Trade (FAST) Program, Transport Canada's Restricted Area Identity Card (RAIC) Program, as well as Global Affairs Canada's Import Controls and Import Permits program be re-examined to help ensure they remain relevant, efficient, and secure in the face of changing trade dynamics and threats to the security of Canadians. Lastly, in re-examining these programs, the risk tolerance for admittance to the programs should be tightened to prevent all individuals with contraindicators from participation, and existing program participants should be re-examined to ensure they meet these revised risk tolerance thresholds.

9. Create 'track and trace' capabilities nationally

Canada requires a comprehensive program to chemically profile the components of fentanyl, enabling law enforcement to trace illicit drugs back to their source and identify the origins of seized substances. This program should be designed consistent with international best practices, supporting intelligence efforts by linking seizures to broader distribution networks. Additionally, it is recommended that the Ontario Drug Identification Network be expanded nationally to enhance drug profiling capabilities across Canada and its data should be integrated with Interpol's global drug profiling efforts such as the Interpol RELIEF database. Post our February 24th meeting, ongoing engagement with police leaders has identified a need to explore expanding the capacity of the police to deal with CLAN labs in a consistent, safe and expeditious manner across Canada.

10. Intelligence and Enforcement

Prioritize a review of Section 107 of the *Customs Act* to determine if amendments to the Act or policy direction is required to ensure police officers have expeditious access to customs information for the purpose of furthering a *Criminal Code* and/or *Controlled Drug and Substances Act* investigation.

11. Strengthen international information sharing, including Canada's use of Interpol

International police-to-police information sharing is the lifeblood of effective interventions against the transnational organized crime networks responsible for the global trade in fentanyl and other narcotics. It is the *key* irritant raised in the bilateral relationship between Canadian and US law enforcement. Recent Government announcements aimed at expanding sharing vis-à-vis the *National Sex Offenders Registry Act* are positive steps, but more can and should be done, even within the context of existing frameworks.

One step would be to vocally promote a stronger "need-to-share" culture across the police, security and intelligence community. This could be supported by clear Ministerial Direction and policy statements that rebalance the sometimes-competing interests of sharing and the liabilities of doing so. This would clearly signal to agencies at all levels of the Government and the public's expectation that the preservation of the peace and the prevention of crime remains front and centre in decision-making on information sharing.

Another step would be to expand Canada's data-sharing with Interpol. The potential power of this stands out with recent efforts against stolen motor vehicles, where new connectivity between existing datasets led to the detection and retrieval of thousands of cars stolen from Canadians. New automated data-matching links between existing traveler and visa data sets on the one hand and Interpol's holdings on the other would detect, and generate opportunities to intervene against, individuals associated to drug trafficking and organized crime entering Canada. This is long overdue. Canada ranks in the bottom half of nations using Interpol's systems despite being a significant funder of the organization, largely because we have failed to build these types of connections to share at scale efficiently.

Lastly, a third step could focus on upskilling police nationwide on information sharing approaches, especially with foreign law enforcement. Training on information sharing best practices, on existing legislative gateways, mechanisms and tools, and on approaches to working with foreign partners in a *Charter* compliant way would increase sharing by increasing police facility with the practice, while at the same time mitigating risks and reducing current uneven approaches. This, coupled with a concerted effort to map and ensure clarity and transparency in how we share information to whom and when, would go a long way to reducing irritants of foreign partners and make Canadian police more effective.

The CACP brings extensive expertise in policing, which is vital in addressing the fentanyl crisis and other pressing public safety challenges facing our communities today. We are committed to collaborating with you and your team on the aforementioned initiatives and would welcome the opportunity to discuss these matters further at your earliest convenience.

Sincerely,



Commissioner Thomas Carrique
President

cc. The Honourable David McGuinty, Minister of Public Safety and Emergency Preparedness
cc. The Honourable Gary Anandasangaree, Minister of Justice and Attorney General of Canada
cc. The Honourable Kamal Khera, Minister of Health
cc. Commissioner Mike Duheme, Royal Canadian Mounted Police
cc. Mr. George Dolhai, Director of Public Prosecutions and Deputy Attorney General of Canada
cc. Aviva Rotenberg, Chief Executive Officer, Canadian Association of Chiefs of Police