

**Canadian Human
Rights Tribunal**



**Tribunal canadien
des droits de la personne**

Citation: 2024 CHRT 14
Date: March 19, 2024
File Nos.: HR-DP-2983-23

Between:

Kai Liu (On behalf of Indigenous Police Chiefs of Ontario)

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

Public Safety Canada

Respondent

- and -

First Nations Chiefs of Police Association

Interested person

Ruling

Member: Athanasios Hadjis

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I. OVERVIEW

[1] This is a ruling on a motion for interested person status.

[2] The Complainant, Kai Liu, filed a complaint on behalf of Indigenous Police Chiefs of Ontario (IPCO), alleging that the Respondent, Public Safety Canada (PSC), discriminates in the application of its First Nations and Inuit Policing Program (FNIPP). The Canadian Human Rights Commission (the “Commission”) referred the complaint to the Tribunal for inquiry.

[3] The First Nations Chiefs of Police Association (FNCPA), representing 36 First Nations police services across Canada, has asked to be recognized as an interested person in respect of the inquiry into the complaint.

II. DECISION

[4] The FNCPA is recognized as an interested person, with limits on the extent of its participation.

III. ISSUES

[5] The issues are the following:

1. Should the FNCPA be recognized as an interested person?
2. If yes, what is the extent of its participation in the inquiry?

IV. ANALYSIS

A. The FNCPA is recognized as an interested person

[6] Rule 27 of the *Canadian Human Rights Tribunal Rules of Procedure, 2021*, SOR/2021-137, (the “Rules”) sets out the procedure that a person seeking to be recognized as an interested person must follow. Rule 27(2) states that the notice of motion must specify the assistance the person wishes to provide to the inquiry and the extent to which the person

wishes to participate in the inquiry. If the Tribunal grants the motion, it must specify the extent to which the interested person is permitted to participate (Rule 27(3)).

[7] IPCO consents to the FNCPA's request for interested person status on the condition that the FNCPA will work cooperatively and not introduce new issues that risk prolonging the proceedings. The Commission informed the Tribunal that it does not oppose the FNCPA's motion. It agrees that having the FNCPA's national perspective would be helpful to the Tribunal and parties. PSC does not oppose the motion either but asks that the FNCPA's participation be subject to terms under Rule 27(3).

[8] In *Letnes v. Royal Canadian Mounted Police*, 2021 CHRT 30 at paras 8-13 [*Letnes*], the Tribunal set out the criteria that it has considered in the past when addressing requests for "interested party" status. At least one of the following criteria is required:

1. The prospective interested person's expertise will be of assistance to the Tribunal;
2. Its involvement will add to the legal positions of the parties; and
3. The proceeding may have an impact on the requesting party's interests.

[9] The analysis must not be performed strictly and automatically; rather, it should be approached on a case-by-case basis by applying a flexible and holistic perspective. *Letnes* dealt with a request that was filed just before Rule 27 came into force in 2021. In *A.B v. C.D.*, 2022 FC 1500 at para 35, the Federal Court found it was not unreasonable to apply the same criteria to interested person status requests under Rule 27.

[10] I find that all three criteria are met in this case.

[11] The FNCPA can assist the Tribunal in deciding the case since the FNIPP is a federally administered program that applies across the country. The FNCPA is a nationally recognized organization representing 36 First Nations police services across Canada, serving 159 communities. It can provide a national voice and perspective, as it states in its notice of motion.

[12] As a national representative of the many First Nations police services from across Canada, the FNCPA can provide legal submissions about conditions inside and outside

Ontario, to the extent that they are relevant to the complaint that has been referred to the Tribunal for inquiry.

[13] Finally, the FNCPA and its constituent police services and communities may be directly impacted by any finding regarding the alleged discrimination in the delivery of the FNIPP.

[14] Accordingly, the FNCPA is recognized as an interested person in this case.

B. Terms limiting the extent of the FNCPA's participation

[15] The FNCPA asks that, as an interested person, it should be permitted to file a Statement of Particulars (SOP), call witnesses and lead evidence at the hearing, and make written and oral submissions, as long as its evidence and submissions do not duplicate or overlap with those of the parties.

[16] PSC disagrees. It submits that the FNCPA should not be permitted to adduce evidence or raise new issues. It should only be permitted to present final submissions.

[17] I am not persuaded that granting the FNCPA permission to call its own evidence is warranted or needed in this case. In its submissions, IPCO confirmed that, in discussions with the FNCPA, they have agreed to work collaboratively to identify the issues that impact both organizations and to ensure that new issues that would prolong the proceedings would not be introduced. I am satisfied that this can be achieved without expanding the FNCPA's role to something resembling a full-party participation. While the FNCPA may have a national perspective, its participation must not result in expanding this case beyond the scope of the actual complaint that was referred to the Tribunal.

[18] I therefore find that the FNCPA's role should be restricted to a limited right to cross-examine witnesses with questioning that should not overlap with that of the parties. The questioning will be for a reasonably limited duration as determined by the Tribunal once the hearing begins. The FNCPA will also be permitted to present final oral and written submissions.

V. DISCLOSURE SCHEDULE

[19] The FNCPA presented its motion before the due dates for the parties to file their SOPs and other disclosure documents under the Rules. I suspended the disclosure timelines pending this ruling. The timelines must now be reactivated.

[20] Before I suspended the timelines, PSC had asked for an extension to its SOP and disclosure date, from the March 21, 2024, due date to April 25, 2024. It submitted that it required the extension because of the anticipated complexity of the case and the fact that its counsel had hearing dates during the original scheduled three-week period following IPCO's disclosure. The Commission did not oppose the extension request but took the opportunity to request that its due date be after IPCO's.

[21] IPCO opposed PSC's extension request arguing that PSC is well aware of the issues in this case given the extensive related legal proceedings that have already occurred before the Federal Court and a detailed document that it provided when IPCO filed the complaint with the Commission.

[22] I think it is premature at this stage to conclude that this case is as complex as PSC suggests. I also recognize that some time has elapsed in any event, which may address some of PSC's other time pressures.

[23] I accept the Commission's request that it file its SOP after viewing IPCO's. The timeline, which I have set out below in my order, takes into account the staggered filing dates and the upcoming statutory holidays. IPCO has indicated that it is prepared to file its SOP on short order, so as not to unduly delay the hearing process.

VI. ORDER

[24] I order that the FNCPA have limited interested person status in this case on the following terms:

1. The FNCPA may cross-examine the parties' witnesses provided the questioning does not duplicate or overlap with the parties' questions and for a reasonably limited duration as determined by the Tribunal once the hearing begins;
2. The FNCPA may present oral and written final submissions.

[25] I direct the parties to file their SOPs and related documents according to the following schedule:

- IPCO – March 26, 2024
- The Commission – April 4, 2024
- PSC – April 25, 2024
- Replies by IPCO and the Commission – May 2, 2024

Signed by

Athanasios Hadjis
Tribunal Member

Ottawa, Ontario
March 19, 2024

Canadian Human Rights Tribunal

Parties of Record

File Nos.: HR-DP-2983-23

Style of Cause: Kai Liu (On behalf of Indigenous Police Chiefs of Ontario) v. Public Safety Canada

Ruling of the Tribunal Dated: March 19, 2024

Motion dealt with in writing without appearance of parties

Written representations by:

Julian N. Falconer, for the Complainant

Sean Stynes, for the Respondent

Jessica Walsh, for the Commission

Allison Johnstone, for the Interested person