

**Canadian Human
Rights Tribunal**



**Tribunal canadien
des droits de la personne**

Citation: 2025 CHRT 77

Date: August 8, 2025

File Nos.: HR-DP-3073-24, HR-DP-3074-24 & HR-DP-3075-24

Between:

John Sargeant

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

Correctional Service Canada

Respondent

Ruling

Member: Jo-Anne Pickel

Contents

I.	Overview	1
II.	Decision	2
III.	Issues.....	2
A.	Requests to strike portions of the SOPs	2
B.	Request for particulars.....	2
IV.	Background to the complaints.....	3
V.	Analysis.....	5
A.	Should portions of the Commission's SOP be struck on the basis that they fall outside the scope of Mr. Sargeant's complaints?	5
(i)	Applicable legal principles: the scope of complaints and the role of the Commission	5
(ii)	Clarification about the use of the term "systemic discrimination"	7
(iii)	Scope of the complaints in this case.....	7
(iv)	Portions of the SOPs and reply that CSC seeks to strike	9
B.	Should some of the remedies sought by the Commission be struck on the basis that they do not flow from the allegations of discrimination in Mr. Sargeant's complaints?	13
(i)	Applicable legal principles.....	13
(ii)	Application to this case	14
C.	Should I strike references to reports of a Senate standing committee on the basis that they are subject to parliamentary privilege?	15
(i)	Applicable legal principles.....	15
(ii)	Application to this case	16
D.	Should the Commission provide particulars of any impugned allegations that are not struck from its SOP or reply?	18
E.	Should Mr. Sargeant provide additional particulars regarding two of the allegations included in his SOP?	18
(i)	Grievances alleging racial discrimination.....	18
(ii)	Report about Mr. Sargeant's withdrawal from BIFA	20
VI.	Next steps in this case	21
VII.	Order and directions.....	21

I. Overview

[1] For the reasons set out below, I grant in part a motion made by Correctional Service Canada (CSC), the Respondent, to strike parts of the Statement of Particulars (SOP) filed by the Canadian Human Rights Commission (the “Commission”) and to seek particulars from the other parties.

[2] John Sargeant, the Complainant, alleges that CSC discriminated against him based on his race, colour, national or ethnic origin, and sex, contrary to section 5 of the *Canadian Human Rights Act*, R.S.C., 1985, c. H-6 (CHRA). Mr. Sargeant identifies as a Black man. Three of his complaints that have been referred to the Tribunal by the Commission are being addressed together in this proceeding. All of the events that form the basis of these complaints occurred between 2019 and 2020 while Mr. Sargeant was an inmate at Matsqui Institution (“Matsqui”).

[3] The Commission intends to participate in the hearing where its role is to represent the public interest. The Commission filed an SOP in which it refers to several reports that discuss the existence of anti-Black racism within the correctional system.

[4] The Respondent has brought a motion to strike certain allegations and remedies from the Commission’s SOP and its reply. The Respondent argues that the Commission raises numerous allegations of systemic discrimination that extend beyond the scope of Mr. Sargeant’s complaint. It also argues that some of the remedies sought by the Commission do not flow from the allegations made in this case. CSC asks that I strike these systemic allegations and remedies from the Commission’s SOP and reply. In the alternative, CSC seeks particulars of any allegations in the Commission’s SOP that I decline to strike. It also seeks particulars regarding two allegations raised in Mr. Sargeant’s SOP. Finally, the Respondent argues that reports from a Senate standing committee that the Commission and Mr. Sargeant seek to rely upon are subject to parliamentary privilege and, therefore, cannot be relied upon in this proceeding.

[5] The Commission and Mr. Sargeant oppose CSC’s motion.

II. Decision

[6] I grant CSC's motion, but only in part.

III. Issues

[7] This ruling determines the following issues:

A. Requests to strike portions of the SOPs

- 1) Should portions of the Commission's SOP be struck on the basis that they fall outside the scope of Mr. Sargeant's complaints?
- 2) Should some of the remedies sought by the Commission be struck on the basis that they do not flow from the allegations of discrimination in Mr. Sargeant's complaints?
- 3) Should I strike references to reports of a Senate standing committee on the basis that they are covered by parliamentary privilege?

B. Request for particulars

- 1) Should the Commission provide particulars of any impugned allegations that are not struck from its SOP or reply?
- 2) Should Mr. Sargeant provide additional particulars regarding two of the allegations included in his SOP?

IV. Background to the complaints

[8] Mr. Sargeant filed his first complaint with the Commission in November 2020, and he filed two additional complaints in March 2021. Broadly speaking, Mr. Sargeant raised the following incidents of alleged discrimination:

- i. That a parole officer discriminated against him when she made a racially charged remark to a group of Black inmates which included Mr. Sargeant in July 2020 and then acted scared of him and called security when he went to speak to her about it.
- ii. That his race was a factor in CSC denying him a job in the kitchen in 2019;
- iii. That he was discriminated against when he and others were deprived of the opportunity to celebrate Black History Month at Matsqui in 2020;
- iv. That Matsqui denies all grievances alleging racial discrimination;
- v. That CSC discriminated against him in November 2020 when, after being attacked by a white inmate, he was sent to a maximum-security prison while his assailant remained in a medium-security institution;
- vi. That he was discriminated against or stereotyped based on his identity as a Black man in various reports written by his parole officer; and
- vii. That two parole officers discriminated against him in a meeting in March 2021 in which Mr. Sargeant had asked them to make corrections to reports that they had written about him.

[9] In addition to incorporating these specific incidents, Mr. Sargeant's SOP refers to the history of anti-Black racism, from the time of slavery to the present. Mr. Sargeant also states in his complaints and SOP that anti-Black racism is prevalent within society and throughout the correctional system. In addition, Mr. Sargeant references racist stereotypes that he says are commonly used against Black men.

[10] One of the Commission's Human Rights Officers investigated the complaints and, more specifically, the seven sets of incidents set out above, to determine whether an inquiry was warranted. She found that there was a strong public interest in having the Commission refer the complaints to the Tribunal. She noted that the complaints describe individual instances of anti-Black racism, but that these may be indicative of underlying systemic anti-Black discrimination within the correctional system. The Commissioner who reviewed the report accepted the Human Rights Officer's recommendations. In his Record of Decision, the Commissioner referred to the incident in which Mr. Sargeant was sent to a maximum-security institution after he was assaulted by a white inmate. The Commissioner did not refer to any other allegations in the complaints but found that an inquiry was warranted with respect to all three complaints.

[11] Mr. Sargeant filed a total of five documents as his SOP. He filed three documents on January 21, 24 and 27, 2025, respectively. He also filed two addendums to his SOP: one on February 4 and another on June 19, 2025. I refer to those five documents collectively in this ruling as his SOP. In its SOP, the Commission listed the various allegations set out above that Mr. Sargeant made in his complaints. It then referred to reports on anti-Black racism issued by the Office of the Correctional Investigator, the Auditor General of Canada, and the steering group for Canada's Black Justice Strategy. I refer to these reports collectively in this ruling as "the Third-Party Reports". The Commission and Mr. Sargeant also referred to reports of the Standing Senate Committee on Human Rights, which I will address separately below as CSC argues that they are subject to parliamentary privilege and may not be relied upon in this proceeding.

[12] The Commission took the position that Mr. Sargeant's complaints are an example of anti-Black racism that is systemic and prevalent in the prison system. In its SOP, the Commission has sought as remedies the implementation of some of the recommendations

set out in the Third-Party Reports. In its SOP, CSC took the position that the Commission had improperly sought to add several allegations of systemic discrimination that it said had no foundation in Mr. Sargeant's SOP. In its reply, the Commission argued that Mr. Sargeant's complaints raise individual and systemic allegations. It took the position that the Third-Party Reports it referred to in its SOP support both aspects as well as the remedies sought by the Commission.

V. Analysis

A. Should portions of the Commission's SOP be struck on the basis that they fall outside the scope of Mr. Sargeant's complaints?

[13] For the following reasons, I decline to strike most of the impugned portions of the Commission's SOP. However, I find that the Third-Party Reports referred to by the Commission cannot be used to add new allegations to Mr. Sargeant's complaints. They may only be used, if at all, as social context evidence to either provide a frame of reference or background context for deciding factual issues crucial to the resolution of the case. I will hear the parties' full submissions at the hearing on the admissibility of the Third-Party Reports (or those parts of them that are sought to be entered), as well as on any weight to be accorded to them and the purpose for which any admitted portions may be used.

[14] I provide my overarching reasons for my findings in the paragraphs that follow and address specific impugned portions of the SOPs in the Appendix that forms part of this ruling.

(i) Applicable legal principles: the scope of complaints and the role of the Commission

[15] The Tribunal's role is to inquire into complaints referred to it by the Commission (see sections 40, 44 and 49 of the CHRA). In determining the scope of a complaint, the Tribunal may consult, among other things, the Commission's investigation report, the letters sent by the Commission to the Chairperson and the parties, the original complaint and any administrative forms (*Levasseur v. Canada Post Corporation*, 2021 CHRT 32 at para 17

[Levasseur]). The same principles apply whether the Tribunal is ruling on the scope of a complaint or addressing a motion to strike allegations from an SOP (*Levasseur* at para 7).

[16] The Tribunal is not intended to be a Royal Commission into general allegations of discrimination in a certain institution, sector of society or government service (*Richards v. Correctional Service Canada*, 2025 CHRT 57 at para 49 [*Richards*]; *Moore v. British Columbia (Education)*, 2012 SCC 61 at para 64 [*Moore*]). At all times, the Tribunal must remain focused on the allegations contained in the complaints before it. The Tribunal has a mandate to conduct proceedings as informally and expeditiously as the requirements of natural justice and the *Canadian Human Rights Tribunal Rules of Procedure*, 2021, SOR/2021-137 (the “Rules of Procedure”) allow: section 48.9(1) of the CHRA; Rule 5 of the Rules of Procedure. The Tribunal must also be guided by the principle of proportionality to ensure that it uses its publicly funded resources as efficiently as possible (see e.g., *Richards* at para 25).

[17] The Commission may refer all or part of a complaint to the Tribunal for inquiry. However, the CHRA does not provide the Commission with a power to unilaterally add allegations to a complaint that has been filed by an individual. The Commission acts as a screening body for complaints that are filed under the CHRA (*Jagadeesh v. CIBC*, 2024 FCA 172 at paras 26–27). The Commission may designate an investigator to investigate a complaint (subsection 43(1) of the CHRA). Upon review of a report, or at any stage after the filing of a complaint, the Commission may refer the complaint to the Tribunal if it determines that an inquiry is warranted (subsections 44(3) and 49(1) of the CHRA).

[18] The Commission does not have carriage of complaints that are filed by individuals. The Commission may initiate its own complaint if it has reasonable grounds for believing that a person is engaging, or has engaged, in a discriminatory practice (subsection 40(3) of the CHRA). However, complaints filed with the Commission by individuals are not Commission complaints; they belong to the complainants who filed them (*P.S.A.C. v. Canadian Museum of Civilization Corporation*, 2006 CHRT 1 at para 18). The Tribunal’s jurisdiction is set out by the complaints themselves and the Commission’s referral of the complaints.

[19] If the Commission takes part in the Tribunal's inquiry, its role is to adopt positions in relation to the complaint that are, in its opinion, in the public interest (section 51 of the CHRA). Once an inquiry is started by the Tribunal, the parties must file SOPs. In its SOP, the Commission must set out its position on the facts on which the complaint is based, the issues the complaint raises and any order the complainant is seeking under subsections 53(2)–(4) of the CHRA (Rule 19 of the Rules of Procedure). The Commission may also seek orders under subsections 53(2)–(4) of the CHRA. There is nothing in the Rules of Procedure that provides the Commission an opportunity to raise additional facts or issues other than those raised in the complaint.

(ii) Clarification about the use of the term “systemic discrimination”

[20] At the outset, it is worth noting that the term “systemic discrimination” can be used in at least three related but different ways. I raise the issue because it is not perfectly clear to me that the parties mean the same thing when they use the term. First, the term “systemic discrimination” can refer to how practices, systems or attitudes—whether by design or impact—have the effect of limiting opportunities for individuals (*Richards* at para 22). Second, the term can be used to refer to discrimination that affects more than one individual (*Moore* at para 58). Third, the term may be used to refer to a complex web of barriers, policies and practices that affect a class of individuals throughout an institution as a whole (*CN v. Canada (Canadian Human Rights Commission)*, 1987 CanLII 109 (SCC)).

[21] An additional complicating factor is that, in some cases, complainants may be seeking to hold a respondent directly liable for “systemic discrimination”, whereas, in other complaints, complainants seek to raise issues of systemic discrimination solely as context for the actual allegations of CHRA violations made in their complaint and further particularized in their SOP.

(iii) Scope of the complaints in this case

[22] Mr. Sargeant's complaints relate to the seven instances of alleged discrimination set out in paragraph 8 above. Although Mr. Sargeant says that racism runs rampant in the

correctional system, he did not make allegations about any specific instances of discrimination victimizing other individuals in the correctional system. He also did not include in his complaint specific allegations about any conditions that may exist, or incidents that have taken place, across the correctional system generally. Mr. Sargeant did refer to systemic anti-Black racism, from the history of slavery in North America up to the present day. He also referred to common stereotypes about Black men within society. However, I do not understand Mr. Sargeant to be arguing that CSC is liable for historical events such as slavery or broader patterns of thinking and stereotypes within society. Moreover, such allegations in his complaint would have to be framed within the context of section 5 of the CHRA, which they are not.

[23] Instead, I find it clear from the complaints before me that Mr. Sargeant intends to argue that this history of anti-Black discrimination and prevalent racist stereotypes form the context within which to analyze the incidents raised in his complaints. For example, I see Mr. Sargeant's reference to common racist stereotypes as intending to provide a context for his argument that certain things said about him by CSC staff are racially charged and therefore discriminatory. I do not take him to be saying that CSC is liable for the existence of any stereotypes about Black men that may exist within broader society.

[24] As such, the references in Mr. Sargeant's complaints to the existence of anti-Black racism in the correctional system generally do not add distinct "systemic" allegations to his complaints in the second or third sense referred to in paragraph 19 above. Instead, his references to systemic discrimination are most appropriately viewed in the first sense set out above as instances of alleged discrimination that are connected to practices, systems or attitudes that have had an adverse impact on him due to his race. Alternatively, or in addition, his references to systemic discrimination can fairly be viewed as references to the contextual factors that he says must be taken into consideration in order to better analyze the instances of alleged discrimination he raised in his complaints.

[25] The complaints are about the instances of anti-Black racism listed in Mr. Sargeant's complaints. That said, some contextual evidence may be relevant to providing a frame of reference or background context for deciding the factual issues in this case. Also, it is clear from the CHRA that even individual complainants may seek "systemic" or public interest

remedies—that is to say, remedies that are aimed at preventing the same or similar practices from occurring in the future (subparagraph 53(2)(a) of the CHRA).

[26] Approaching the case in this manner is not only consistent with the way the complaints are drafted, but it represents a proportional use of the Tribunal’s resources that is also fair to the parties. Mr. Sargeant has been clear from the first case management conference call that I held with the parties that he is eager to have his complaints dealt with as quickly as possible. If the Tribunal were to conduct a general inquiry into the various manifestations of anti-Black racism victimizing all Black individuals across the correctional system in general, it would not only be exceeding its mandate on a fair reading of the complaint, but such a hearing could potentially take years. This would not only adversely affect Mr. Sargeant, but it would adversely affect access to justice for other parties who are currently waiting to have their complaints heard by the Tribunal.

(iv) Portions of the SOPs and reply that CSC seeks to strike

(a) References to Third-Party Reports generally

[27] I deny CSC’s request to strike any and all references to the Third-Party Reports in the Commission’s SOP. In my view, the Reports (or portions of them) may be admissible as social context evidence. However, as detailed below, the Commission cannot use the Third-Party Reports as a vehicle to add any specific allegations of systemic discrimination across the correctional system generally.

[28] Social context evidence is often defined as “social science research that is used to construct a frame of reference or background context for deciding factual issues crucial to the resolution of a particular case”: *R. v. Spence*, 2005 SCC 71 at para 57. See also *Woodgate et al. v. RCMP*, 2023 CHRT 9 at paras 25–27. Whether the category of social context evidence may extend beyond social science research to reports like the Third-Party Reports is an issue best addressed at the hearing.

[29] Admissible social context evidence may assist decision-makers in determining whether to draw inferences in particular cases (see for example *Banda v. Correctional*

Service Canada, 2024 CHRT 89 at para 181 [*Banda*]; *Peart v. Peel Regional Police*, 2006 CanLII 37566 (ON CA) at para 96 [*Pearl*]). However, there are also limits on the use of social context evidence (see *Banda* at para 190; *Woodgate* at para 27; *Peart* at para 96).

[30] In my view, social context evidence cannot be used to add allegations to a complaint. I have clearly set out the scope of the complaints in the section above. As set out above, there is nothing in the CHRA or the Rules of Procedure that would permit the Commission to amend an individual's complaint once it has been referred to the Tribunal. Moreover, it is not open to the Commission to extend the scope of this inquiry by asking, in its SOP, that the Tribunal make specific findings about forms of anti-Black racism in the correctional system as a whole that have no nexus to the complaints before me.

[31] The Commission says that the directions I provided to the parties on May 2, 2025, support its ability to advance a case of systemic discrimination. However, I disagree. In the email in question, I proposed to the parties that they agree that the only allegations before me are those set out in Mr. Sargeant's three complaints and that the Third-Party Reports referred to by the Commission in its SOP are not being put forward to expand the scope of the allegations but instead are being cited as social context evidence. I further proposed that the parties could then make submissions at the hearing as to the weight to be granted to the reports and the purposes for which this type of social context evidence may, and may not, be used. This ruling is consistent with the approach I proposed in my email.

[32] For the reasons detailed above, I decline to strike all references to the Third-Party Reports. However, the Reports cannot be used to add new allegations to Mr. Sargeant's complaints. They may only be used, if at all, as social context evidence to provide a frame of reference or background context for deciding factual issues crucial to the resolution of the case. I will hear the parties' full submissions at the hearing on whether the Third-Party Reports (or portions of them) are admissible as social context evidence and, if so, the weight that should be given to them and the purpose for which any admitted portions may be used.

(b) Connections made between the issues raised in the Third-Party Reports and allegations in this case

[33] Notwithstanding the findings above, I grant CSC's request to strike certain portions of the Commission's SOP that seek to draw a connection between the Third-Party Reports and the issues in this case. In certain paragraphs of its SOP, the Commission suggests that certain findings in the Third-Party Reports are of particular relevance to Mr. Sargeant's case when in fact the findings lack a sufficient connection to any of Mr. Sargeant's allegations.

[34] Specifically, I grant CSC's request to strike references to gang labelling as Mr. Sargeant did not make any allegation in his complaints or SOP about being labelled as a gang member. I am aware that he appears to have mentioned to the Commission's investigator that a CSC representative had labelled him as a gang member. However, there is no mention of such labelling in his complaints or in his SOP, the documents which are of relevance to me in this proceeding. Mr. Sargeant has raised complaints about numerous other comments made about him by CSC staff in reports about him, such as comments that he ran a prostitution ring. However, he has not mentioned in his complaints or in the various documents making up his SOP that CSC staff labelled him a gang member. Therefore, I agree with CSC that it is appropriate to strike references to portions of the Third-Party Reports that discuss the issue of gang labelling.

[35] I also grant CSC's request to strike any reference to general correctional programming, other than cultural events such as the marking of Black History Month. CSC offers various forms of programming that have no connection to the allegations in this case. However, any references to cultural events or programming will not be struck, as they have a nexus to Mr. Sargeant's complaints about the lack of events marking Black History Month at Matsqui in 2020.

[36] In addition, I grant the Respondent's request to strike any reference to involuntary transfers, other than transfers brought about by security reclassifications. The larger issue of involuntary transfers has an insufficient nexus to Mr. Sargeant's allegations. It is distinct from the reclassification issue, which has a nexus to the incident in which Mr. Sargeant was

sent to a maximum-security institution after defending himself against a white inmate who was permitted to remain in a medium-security institution.

[37] I deny CSC's request to strike all other references to findings from the Third-Party Reports because CSC has failed to demonstrate the absence of a sufficient connection between those findings and the issues raised by Mr. Sargeant in this case.

[38] I do not agree with the Commission that the striking of any references to the Third-Party Reports would amount to the "censoring" of the reports. To be clear, the SOP portions I have struck above are not being struck because they form part of the Third-Party Reports. They are being struck because they have an insufficient connection to the issues raised by Mr. Sargeant in his complaints. I also do not agree that only allowing the Commission to refer, in its SOP, to portions of the report that have a nexus to Mr. Sargeant's allegations will distort their meaning or cloud transparency. Instead, striking references to the reports that lack a nexus to Mr. Sargeant's complaints is necessary to ensure that the hearing is focused on the issues raised in those complaints.

(c) Commission's request that I take judicial notice of systemic racial discrimination

[39] In its response to CSC's motion, the Commission argued that I must take judicial notice of systemic racial discrimination. This is an issue that is most appropriately addressed after I have heard full arguments at the hearing.

[40] Courts and tribunals have taken judicial notice of the existence within society or institutions of certain forms of discrimination such as anti-Black racism: *Banda* at para 180 citing *R. v. Williams*, 1998 CanLII 782 (SCC) at para 54; *Sinclair v. London (City)*, 2008 HRTO 48 at para 17; *Turner v. Canada Border Services Agency*, 2020 CHRT 1 at para 49; *R. v. Morris*, 2021 ONCA 680. However, assessing whether it is appropriate for a decision-maker to take judicial notice of more specific facts is a nuanced process that depends on the role the facts in question will play in the disposition of a case (*R. v. Spence* at para 65; *R. v. Le* at paras 85–86). It is for this reason that the issue of judicial notice must be addressed after I have heard full argument at the hearing.

(d) Commission's argument about the reversal of onus

[41] In its response to the CSC's motion, the Commission argues that there is a reversal of the onus of proof in cases which arise in the context of indisputable systemic discrimination. The Commission cites no authority for this proposition. The argument appears to contradict settled law that the burden of proof in the human rights context is the same as in the civil context: a person who alleges bears the burden of proving their case on a balance of probabilities (*Ontario Human Rights Commission v. Simpsons-Sears Limited*, [1985] 2 S.C.R. 536; *Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Bombardier Inc. (Bombardier Aerospace Training Center)*, 2015 SCC 39 at paras 56–59, 65). See also *Peart* at paras 136–155. There may be exceptions for situations in which there is a significant imbalance in the parties' access to evidence relating to a particular point (*Canada (Social Development) v. Canada (Human Rights Commission)*, 2011 FCA 202 at paras 29–30). However, it is difficult to see how such an exception would be applicable in this case. In any event, the issue of the onus of proof is another issue which is best addressed after I had heard full arguments from the parties at the hearing.

B. Should some of the remedies sought by the Commission be struck on the basis that they do not flow from the allegations of discrimination in Mr. Sargeant's complaints?

[42] Yes. For the reasons set out below, I grant CSC's request to strike remedies that clearly do not flow from the issues raised in this case.

(i) Applicable legal principles

[43] The Tribunal has extensive powers to remedy discrimination and to order a respondent to take measures to prevent the same or similar discriminatory practices from occurring in the future (subsection 53(2)–(4) of the CHRA). However, tribunals are not intended to be Royal Commissions. Royal Commissions are frequently granted a broad mandate to make wide ranging, usually non-binding, recommendations to Parliament or some other legislative body (see e.g., *Reference re Assisted Human Reproduction Act*, 2010 SCC 61 at para 160). By contrast, the remedies that tribunals like this one are

empowered to issue must flow from a substantiated claim of discrimination (*Moore* at para 64).

(ii) Application to this case

[44] In my view, it is not appropriate to strike the remedies sought by a party at a preliminary stage unless they clearly do not flow from any allegations of discrimination made in the complaint. I agree with CSC that the remedies sought by the Commission are wide ranging and some extend beyond what can reasonably be said to flow from the discrimination alleged in this case.

[45] In my view, it is clear that the remedies regarding the following issues do not flow from the instances of alleged discrimination raised in the complaints before me: gang labelling, involuntary transfers in general that are not connected to security reclassification, access to programming for Black inmates other than cultural programming such as Black History Month events, use of Structured Intervention Units, use of segregation, use of force and general patterns of incarceration. At this stage, it is not clear that the other remedies sought by the Commission would not flow from, or have a sufficient connection to, the complaints. I must hear the evidence in the case and full submissions from the parties before I make any ruling with respect to the other remedies sought by the Commission.

[46] I have taken note of the Respondent's argument that the remaining wide-ranging remedies sought by the Commission would require them to take steps to investigate each form of relief and disclose documents that will inevitably lead to a delay in the adjudication of the complaints. In my view, the remaining remedies should not require an inordinate amount of time for CSC to address, if it is in fact committed to moving forward with this case efficiently and without excessive delay.

[47] I agree with CSC that the Commission cannot at this stage reserve the right to add further remedies based on the submissions and evidence of the parties. The Rules of Procedure preclude parties from making submissions at the hearing about any remedy that was not identified in their SOP: Rule 37(d) of the Rules of Procedure. Moreover, while the Commission can seek leave for dispensation with Rule 37(d), the Tribunal's decision to grant

such a request would necessarily have to take into account any resulting delay in the proceeding and its impact on the parties (Rules 5 and 8).

[48] For the above reasons, I grant CSC's request to strike some of the remedies sought by the Commission that clearly do not flow from the discrimination allegations in this case. I specifically list in the Appendix to this ruling the paragraphs, or portions of paragraphs, affected by this finding.

C. Should I strike references to reports of a Senate standing committee on the basis that they are subject to parliamentary privilege?

[49] Yes. I agree with CSC that applicable case law has found that reports such as the Senate Standing Committee on Human Rights reports relied upon by the Commission and Mr. Sargeant are subject to parliamentary privilege. I am bound by this case law.

(i) Applicable legal principles

[50] Parliamentary privilege refers to "the sum of the privileges, immunities and powers enjoyed by the Senate, the House of Commons and provincial legislative assemblies, and by each member individually, without which they could not discharge their functions": *Canada (House of Commons) v. Vaid*, 2005 SCC 30 at para 29(2) [*Vaid*]. When a matter falls within the scope of parliamentary privilege, the exercise of the privilege cannot be reviewed by any external body, including a court or tribunal. In other words, the effect of parliamentary privilege is to confer an immunity from judicial review over the privileged matter: *Hudson v. Canada*, 2025 FC 485 at para 23 citing *Canada (Attorney General) v. Power*, 2024 SCC 26 at paras 151 and 153 [*Power*].

[51] An objection based on parliamentary privilege at the federal level is subject to a two-step test. First, a decision-maker must assess whether the existence and scope of the claimed privilege have been authoritatively established under Canadian or British precedent. If so, the inquiry stops there (*Vaid* paras 37 and 39).

[52] Second, if the proposed category of privilege has not been authoritatively established, then the decision-maker must consider whether the privilege claimed is justified

under a “necessity” test. The decision-maker must consider whether the activity is so closely and directly connected with the functions of the legislative assembly or its members that “outside interference would undermine the level of autonomy required to enable the assembly and its members to do their work with dignity and efficiency”: *Vaid* at paras 40, 46.

[53] There exist several categories of parliamentary privilege that have been authoritatively established by precedent, including “freedom of speech”. Matters within these established categories attract absolute immunity: *Vaid* at para 29(10).

(ii) Application to this case

[54] In several recent cases, the Federal Court has held that Parliamentary reports, such as Senate committee reports, are subject to parliamentary privilege in the category of freedom of speech. They have found that admitting such reports as evidence on a disputed issue is contrary to parliamentary privilege (see *Hudson* at paras 53–56 and *Thompson v. Canada*, 2024 FC 1752 at paras 23–26 [*Thompson*]). See also *Mobile Telesystems Public Joint Stock Company v. Canada (Attorney General)*, 2025 FC 181 at para 32). Accordingly, based on established Federal Court precedent, I conclude that the Senate Standing Committee reports referred to by Mr. Sargeant and the Commission fall within the established category of “freedom of speech”. Therefore, the inquiry must end there, and I must recognize the privilege.

[55] Even if I were to find that the existence and scope of the claimed privilege have not been authoritatively established under Canadian precedent, I would conclude that the privilege claimed is justified under the “necessity” test. The Senate Standing Committee reports are the direct work product of the committee. The reports arise from Senate committee proceedings, summarize the testimony received from witnesses and set out recommendations based on the evidence heard. As such, the reports reflect activities that are closely and directly connected with the functions of a committee of the Senate, which is a House of Parliament. I note that the Federal Court reached the same conclusion in *Hudson* (at paras 49–54).

[56] The Commission and Mr. Sargeant are not themselves challenging the Senate Standing Committee reports or witness testimony; in fact, they are seeking to rely upon them. However, admitting these reports as evidence of contested facts would likely prompt CSC to challenge the reports' contents. This would then require me to assess the reliability of the reports' conclusions about systemic racism in the correctional system. Admitting the reports would thus be inconsistent with parliamentary privilege, as it could lead to challenges to the Committee's work and undermine its functions (see *Hudson* at paras 52–53).

[57] The Commission submits that I should choose not to follow the recent Federal Court authority cited above on the basis that there is a higher court authority as well as an alternate authority that better aligns with human rights principles. I do not agree. Three of the decisions that the Commission seeks to rely upon as authority are decisions in which the issue of parliamentary privilege was not addressed (*Araya v. Canada (Attorney General)*, 2023 FC 1688 at paras 47–49; *Canada (Attorney General) v. First Nations Child and Family Caring Society of Canada*, 2021 FC 969; *Kim v. Correctional Service of Canada*, 2025 CHRT 39 at para 110).

[58] The Commission also sought to rely upon the Supreme Court's decision in *Power*. However, the claim to parliamentary privilege being made in *Power*—that Parliament enjoys absolute immunity to a claim for damages based on legislative action—was broader than the one in this case and factually dissimilar to the circumstances in this case (see paras 43, 46–47).

[59] I do not agree with the Commission's position that parliamentary privilege does not provide immunity in human rights proceedings. The Commission has cited no authority for that proposition. Meanwhile, parliamentary privilege has been applied in several cases raising human rights issues, including issues related to systemic racism, by way of class action proceedings (see *Hudson* at para 4; *Thompson* at paras 5–6, 13). I see no reason why this Tribunal's proceedings would be exempt from the application of the principle of parliamentary privilege or why the findings in the above decisions would not apply solely because of the type of legal recourse chosen by the claimants in those cases.

[60] For the reasons set out above, I conclude that I am bound by Federal Court case law cited above. The Senate Standing Committee reports referred to by the Commission and Mr. Sargeant are subject to parliamentary privilege and may not be referred to on a disputed issue such as the existence and extent of systemic racism in the correctional system. That said, there may be other purposes for which the reports may be admitted, such as to establish uncontroversial facts or the occurrence of parliamentary events (see *Hudson* para 55; *Thompson* at para 21). That issue is best addressed at the hearing.

D. Should the Commission provide particulars of any impugned allegations that are not struck from its SOP or reply?

[61] It is unnecessary for me to order the Commission to provide particulars regarding any new allegations made by the Commission. For the reasons set out above, the Third-Party Reports referred to by the Commission cannot be used to add new allegations to Mr. Sargeant's complaints. They may only be used, if at all, as social context evidence to provide a frame of reference or background context for deciding factual issues crucial to the resolution of the case.

E. Should Mr. Sargeant provide additional particulars regarding two of the allegations included in his SOP?

[62] CSC seeks additional particulars regarding two issues raised by Mr. Sargeant: the issue he raised about CSC denying grievances alleging racial discrimination and an issue regarding a report that referred to Mr. Sargeant's withdrawal from the Black Inmates and Friends Association (BIFA).

(i) Grievances alleging racial discrimination

[63] I grant CSC's request for additional particulars regarding Mr. Sargeant's allegation about grievance denials. Mr. Sargeant alleges that both the facts giving rise to the grievances and CSC's denials of those grievances constituted acts of discrimination.

[64] In the case management conference call I held with the parties on April 24, 2025, CSC sought further particulars about which grievance denials Mr. Sargeant intends to challenge as discriminatory in this proceeding and why. Mr. Sargeant confirmed that he was taking issue with the facts giving rise to the grievances he filed during his time at Matsqui and the decisions rendered with respect to those grievances.

[65] In correspondence dated April 14, 2025, which Mr. Sargeant sent with his reply, he listed ten grievances and a request he filed with CSC. He provided copies of CSC's replies to all but one of the grievances. These appear to be the grievances that Mr. Sargeant was referring to in the April 2025 call as the grievances that formed part of his complaints.

[66] On May 7, 2025, Mr. Sargeant filed copies of grievances and responses with the Tribunal regarding incidents at Mission Institution, his current location. On May 15, 2024, Mr. Sargeant sent further grievance documents regarding incidents at Mission Institution in 2024. Mr. Sargeant's purpose in sending the grievance documents from Mission Institution is unclear. These grievances do not relate to his time at Matsqui which he had confirmed as being the grievances to which he was referring in his complaints. Mr. Sargeant has not made a request to amend his complaint to add allegations that post-date his complaint. He has other complaints pending with the Commission; any issues related to his 2024 grievances could presumably be raised in those complaints.

[67] I agree with CSC that Mr. Sargeant must provide additional details about precisely why he is alleging that CSC discriminated against him in its responses to the grievances he listed with his reply. It may well be that Mr. Sargeant is generally referring to the denial of the grievances to show that CSC has failed to adequately address any discrimination to which he was subjected. If so, it is sufficient for him to confirm that with the Tribunal and the other parties.

[68] Alternatively, if Mr. Sargeant is alleging that there is something relating to CSC's responses to his grievances that is in itself discriminatory, in the sense of adversely differentiating against him because of his race, then he must identify which elements of the grievance responses he alleges to be discriminatory and why. To ensure maximum clarity on this issue, Mr. Sargeant must identify specifically which of the grievance documents he

listed in his reply are discriminatory and, for each, he must specifically explain what it is about CSC's response that he claims to be discriminatory. For example, is there something in particular about the response, or language used in it, that he is saying is discriminatory? If not, Mr. Sargeant must clarify on what basis he is saying that the grievance responses were discriminatory.

(ii) Report about Mr. Sargeant's withdrawal from BIFA

[69] CSC requested particulars relating to a report referred to by Mr. Sargeant which commented upon his withdrawal from the BIFA group. It appears that Mr. Sargeant has already responded to this request for particulars by attaching to the June 19, 2025, addendum to his SOP an Assessment for Decision originally dated November 6, 2020.

[70] In the case management conference call I held with the parties in June 2025, an issue arose about whether Mr. Sargeant wished to pursue the issue he raised in his complaints about CSC staff including inaccurate and prejudicial information about him in reports. CSC asked for more particulars about this allegation if Mr. Sargeant did wish to raise it in this proceeding. Mr. Sargeant agreed to file an addendum to his SOP after the call, which he did. Mr. Sargeant attached to his addendum an Assessment for Decision which, under the heading "Appraisal", states that it was originally dated November 6, 2020. The document states that Mr. Sargeant requested to be removed from the BIFA group, citing discontent with how Matsqui mismanaged Black History Month.

[71] In correspondence filed with the Tribunal on July 10, 2025, Mr. Sargeant said that the report he was referring to regarding his withdrawal from BIFA was the document attached to his last amendments to his SOP. Therefore, it appears to be the one described in the previous paragraph. However, Mr. Sargeant described the Assessment for Decision as being dated December 2, 2021 (not the November 6, 2020, date set out in the document he filed). He argued that his parole officer listed his decision to withdraw from the group as a negative incident and that, in his view, this was a racist characterization of his decision to leave the group.

[72] Mr. Sargeant must confirm with the Tribunal and the other parties whether the report I described in paragraph 71, which was originally dated November 6, 2020, is the one he was referring to in his July 10, 2025, correspondence. If it is not and there is an additional report dated December 2, 2021, he must file a copy of it with the Tribunal (copying the other parties).

[73] For the reasons set out above, I grant CSC's request for particulars in part.

VI. Next steps in this case

[74] Now that this ruling has been issued, CSC must confirm with the Tribunal and the other parties whether it is willing to attempt mediation in this case. If CSC is willing to engage in mediation, the Tribunal will canvass the parties' availability for a mediation or mediation-adjudication. If CSC is not willing to engage in mediation, the Tribunal will canvass the parties' availability for a case management conference call to set a date for the hearing and to discuss what needs to be done prior to a hearing. Among other things, the Tribunal will address the production request that Mr. Sargeant appears to have made of CSC, which he forwarded to the Tribunal on June 27, 2025.

VII. Order and directions

[75] For the reasons set out above, CSC's motion is granted in part. Within fourteen days of the date of this decision, the parties must take the following actions:

- 1) The Commission must file an amended SOP and reply that complies with my findings above as further detailed in the Appendix. The Commission must indicate the portions of its SOP and reply that were struck out using the strike out feature in its word processing program.
- 2) Mr. Sargeant must either provide the Tribunal and other parties the confirmation referred to in paragraph 67 above or the detailed particulars described in

paragraph 68 above. He must also provide either the confirmation referred to in paragraph 72 above or a copy of the December 2, 2021, report to which he referred in his July 10, 2025, correspondence.

- 3) CSC must confirm whether it is willing to engage in either a mediation or mediation-adjudication in this case.

[76] The Tribunal will follow up with the parties once these actions have been undertaken.

Signed by

Jo-Anne Pickel
Tribunal Member

Ottawa, Ontario
August 8, 2025

Appendix

Impugned paragraphs from the Commission's SOP:

Impugned paragraph numbers or portions of paragraphs	Finding on request to strike	Reason
2(b) "being wrongfully accused of being a gang member"	Granted	See para 34 of ruling
Para 4	Denied	See paras 27–32 of ruling
Para 5 third sentence and footnote 3	Granted	Parliamentary privilege—see paras 49–60 of ruling
Para 5 last sentence	Denied	See paras 27–32 of ruling
Para 24	Denied	See paras 27–32 of ruling. Also, the paragraph simply reproduces the list found in Canada's Black Justice Strategy Framework.
Para 25 reference to Senate Standing Committee report	Denied	Parliamentary privilege does not apply. The sentence simply asserts a fact that Canada's Black Justice Strategy Framework acknowledged the Standing Senate Committee Report on Human Rights. It does not quote or rely upon the contents of the report.
Para 25 "that document negative experiences across a host of correctional outcomes"	Denied	See paras 27–32 of ruling
Para 25 last sentence	Denied	See paras 27–32 of ruling
Para 30 second sentence and all bullet points other than first bullet point	Denied	See paras 27–32 of ruling
Para 30 first bullet point	Granted	See para 34 of ruling
Para 31 bullet points other than bullet points 3, 5, and 6	Denied	See paras 27–32 of ruling
Para 31 bullet point 3	Granted	See para 35 of ruling
Para 31 bullet point 5	Granted	See para 36 of ruling

Para 31 bullet point 6	Granted	See para 34 of ruling
Para 32 second sentence	Denied	See paras 27–32 of ruling
Para 33 and footnote 29	Granted	Parliamentary privilege—see paras 49–60 of ruling
Para 35	Denied	Whether or not the instances of alleged discrimination described by Mr. Sargeant can be characterized as “racial profiling” is unclear at this time. In any event, this is not an added allegation. It is simply about a different characterization of the discrimination alleged by Mr. Sargeant.
Para 36 first sentence	Denied	See paras 27–32 of ruling
Para 40	Denied	See paras 27–32 of ruling
Para 45(d)	Denied	This is simply a reference to the report. A simple reference to the existence of the report is not covered by Parliamentary privilege.
Para 46 item 1	Granted	See para 45 of ruling
Para 46 item 2	Denied	Unclear at this stage if these remedies flow from Mr. Sargeant’s complaints
Para 46 item 3	Granted	See para 45 of ruling
Para 46 item 4	Granted	See para 45 of ruling
Para 46 item 5	Granted in part	See para 45 of ruling—the portions that were struck out in yellow in the copy of the Commission’s SOP appended to CSC’s motion are not struck as they refer to the complaints process generally.
Para 46 item 6	Denied	Unclear at this stage if these remedies flow from Mr. Sargeant’s complaints
Para 46 item 8 (there was no item 7 listed in para 46)	Granted in part	See para 44 of ruling—the portions that were struck out in yellow in the copy of the Commission’s SOP appended to CSC’s motion are not struck as they refer to the complaints process generally.
Para 47	Denied	Although some of these remedies may be remote from the scope of the complaint, it is premature to strike them at this preliminary stage.
Para 48	Granted	See para 47 of ruling

Impugned paragraphs from the Commission's reply:

Impugned paragraph numbers or portions of paragraphs	Finding on request to strike	Reason
Para 6	Denied	The relevant portion does not add any allegations. It simply quotes the Commission investigative report. As found in the ruling, the Commission cannot add new allegations of systemic discrimination to the complaint.
Para 7 bullet point 5	Granted	This is a reference to Mr. Sargeant's SOP which referenced a Senate standing committee report—that paragraph struck from Mr. Sargeant's SOP—see below.

Impugned paragraph from Mr. Sargeant's SOP:

Impugned paragraph numbers or portions of paragraphs	Finding on request to strike	Reason
Reference in SOP document dated January 25, 2025, to conclusions in Senate Standing Committee report	Granted	Parliamentary privilege—see paras 49–60 of ruling

Canadian Human Rights Tribunal

Parties of Record

File Nos.: HR-DP-3073-24, HR-DP-3074-24 & HR-DP-3075-24

Style of Cause: John Sargeant v. Correctional Service Canada

Ruling of the Tribunal Dated: August 8, 2025

Motion dealt with in writing without appearance of parties

Written representations by:

John Sargeant, Self-represented

Anshumala Juyal, for the Canadian Human Rights Commission

Francois Paradis, for the Respondent