

**Canadian Human
Rights Tribunal**



**Tribunal canadien
des droits de la personne**

Citation: 2025 CHRT 90
Date: September 10, 2025
File No.: HR-DP-2983-23

Between:

Kai Liu

(on behalf of the Indigenous Police Chiefs of Ontario)

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

Public Safety Canada

Respondent

- and -

First Nations Chief of Police Association

Intervenor

- and -

Assembly of First Nations

Intervenor

Ruling

Member: Jo-Anne Pickel

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I. Overview

[1] This ruling addresses five preliminary motions made by the parties.

[2] The Complainant, Kai Liu, filed the complaint on behalf of Indigenous Police Chiefs of Ontario (IPCO), which represents nine self-administered Indigenous police services that provide policing for over 80 communities across Ontario. IPCO alleges that the Respondent, Public Safety Canada (PSC), discriminates in its implementation and application of the First Nations and Inuit Policing Program (FNIPP), which is also known as the First Nations Policing Program.

[3] The five preliminary motions I address below are the following:

- 1) a motion by PSC to limit the scope of this complaint;
- 2) a motion by IPCO for leave to call more than five expert witnesses;
- 3) a motion by PSC seeking additional particulars and documents from IPCO;
- 4) a motion by IPCO relating to the application of the legal doctrines of issue estoppel and abuse of process; and
- 5) a motion by IPCO requesting the bifurcation of this proceeding.

[4] My decision is based on the submissions made by IPCO and PSC. Neither the Canadian Human Rights Commission (the “Commission”) nor the intervenors made submissions on the motions.

II. Decision

[5] I grant the following motions in part:

- 1) PSC’s motion to limit the scope of the complaint; and
- 2) PSC’s motion for additional particulars and documents.

[6] I deny the following motions:

- 1) IPCO's motion for leave to call more than five expert witnesses;
- 2) IPCO's motion regarding the application of the doctrine of issue estoppel or abuse of process; and
- 3) IPCO's motion to bifurcate the proceeding.

III. Issues

[7] I must address the following issues:

- 1) Should I grant PSC's motion to limit the temporal and subject matter of the complaint?
- 2) Is it appropriate to provide IPCO with leave to call more than five expert witnesses?
- 3) Should I order IPCO to provide the additional particulars and documents sought by PSC?
- 4) Should the doctrines of issue estoppel or abuse of process be applied to prevent PSC from contesting certain factual and legal findings made in other proceedings?
- 5) Should this proceeding be bifurcated between the issues of liability and remedy?

IV. Background to this complaint

[8] IPCO initially filed a 30-page complaint with the Commission. However, the Commission advised IPCO that complaints must not exceed three pages. In March 2023, IPCO filed a summary of its complaint, which listed the four "key issues" raised in its complaint. The four key issues listed by IPCO in the summary of its complaint were the following:

- 1) PSC imposes allegedly discriminatory terms and conditions under the FNIPP by
 - (i) blocking Indigenous communities from widely used aspects of policing such as canine units and emergency response teams;
 - (ii) blocking ownership of policing infrastructure; and
 - (iii) depriving Indigenous people of the right to legal representation.
- 2) PSC refuses to negotiate the renewal of FNIPP agreements.
- 3) PSC runs out the clock on funding agreements, forcing Indigenous communities to agree to existing discriminatory terms.
- 4) PSC offered misleading excuses for its discrimination and vague promises for the reform of the system.

[9] In the summary of its complaint, IPCO sought the following remedies:

- 1) a declaration that the Crown breached the *Canadian Human Rights Act*, R.S.C., 1985, C. H-6 (CHRA) and must cease and desist from doing so;
- 2) an order that the Crown comply with existing court rulings;
- 3) damages of \$40,000 per person based on the total population of communities serviced by IPCO; and
- 4) appropriate public interest remedies.

[10] The Commission referred the complaint to the Tribunal for inquiry in December 2023 based on a report for decision that examined the four key issues listed above.

[11] Following this, as part of the Tribunal's disclosure process, the parties were required to file statements of particulars (SOPs). In addition to the four key issues that it specifically detailed in the summary of its complaint, IPCO's SOP also included broad allegations of discrimination, including chronic underfunding under the FNIPP. Specifically, IPCO alleged that its services have been "plagued" by a lack of resources, inadequate funding and an inability to deliver equitable policing in line with basic safety standards.

[12] PSC filed its responding SOP along with 73 documents and raised concerns about the discriminatory underfunding allegations included in IPCO's SOP. PSC subsequently filed a first scope motion which sought to strike the discriminatory underfunding allegations on the basis that they exceeded the scope of IPCO's complaint.

[13] The member formerly assigned to this case denied PSC's motion: *Liu (on behalf of the Indigenous Police Chiefs of Ontario) v. Public Safety Canada*, 2024 CHRT 104. The member was of the view that the issue of chronic underfunding fell within the scope of the complaint. However, the member agreed with PSC that IPCO had failed to properly flesh out the particulars of this allegation in its SOP.

[14] The member provided IPCO with the opportunity to file an amended version of its SOP. In November 2024, IPCO filed an amended SOP, list of witnesses and list of documents that were all significantly expanded. Despite not being listed as one of its four key issues in the summary of its complaint, the issue of chronic and systemic underfunding appears to have now become the main focus of IPCO's case. IPCO has made allegations of underfunding that date back almost 35 years to when the FNIPP was established in 1991. IPCO has extended its SOP from 168 to 269 paragraphs. It added 12 new ordinary witnesses to its list of witnesses and 14 new expert witnesses. IPCO's list of documents was lengthened considerably from 89 to over 800 documents: *Liu (on behalf of the Indigenous Police Chiefs of Ontario) v. Public Safety Canada*, 2024 CHRT 138 at para 15 [*Liu – Adjourment Ruling*].

[15] As a result of these significant additions to IPCO's SOP, the member previously assigned to the case granted PSC's request to adjourn three weeks' worth of hearing dates during which the case would have been heard in January 2025: *Liu – Adjourment Ruling*.

[16] In January 2025, I held a case management conference call with the parties to discuss a significant number of preliminary issues arising in large part from the substantial additions made by IPCO to its SOP. I set down a timetable for the filing of motions which has led to this ruling.

V. Tribunal's role under the CHRA

[17] Before examining the motions filed by the parties, it is worth setting out some basic principles about the Tribunal and its jurisdiction under the CHRA.

[18] The Tribunal's role is to inquire into complaints referred to it by the Commission (see sections 40, 44 and 49 of the CHRA). The Tribunal can amend, clarify and determine the scope of a complaint to determine the real questions in controversy between the parties.

[19] 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.

[20] Significantly, the Tribunal must also be guided by the principle of proportionality. The Tribunal's publicly funded resources are precious and limited. As the Supreme Court of Canada has found, and the Tribunal itself has stated many times, a human rights tribunal is not intended to be a royal commission: *Moore v. British Columbia (Education)*, 2012 SCC 61 at para 64; *Richards v. Correctional Service Canada*, 2025 CHRT 57 at para 49; *Canadian Association of Elizabeth Fry Societies v. Correctional Services of Canada*, 2023 CHRT 39 at para 35; *Constantinescu v. Correctional Service Canada*, 2020 CHRT 4 at para 61. The Tribunal is intended to provide expeditious, informal, fair and proportional adjudication of the matters that come before it.

[21] I agree with and adopt comments made by the Chair of the Tribunal about the Tribunal's mandate and the consequences for the Tribunal and parties if the Tribunal abdicates its responsibility to set reasonable limits in the cases before it. As explained by the Chair, complex proceedings involving systemic issues are a reality of the Tribunal's caseload. However, complaints alleging a systemic discriminatory practice, like other complaints, must be dealt with in a proportional manner. The fair and efficient adjudication of such complex proceedings requires setting reasonable and proportional limits on the time frame, subject matter and/or evidence to be heard in such proceedings (*Richards v. Correctional Service Canada*, 2025 CHRT 57 at paras 44–50).

[22] I recognize that the CHRA provides one of the few recourses available to parties to challenge systemic discrimination. However, the Tribunal must remain conscious of its role as an administrative tribunal. Such tribunals are expected to render decisions promptly, flexibly and efficiently, and provide simplified and streamlined proceedings intended to promote access to justice (*Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 at para 29 [*Vavilov*]). The Tribunal's ability to carry out its mandate greatly depends on parties to also approach their cases in balanced and proportionate ways (*Richards v. Correctional Service Canada*, 2023 CHRT 51 at para 29).

[23] Moreover, the Tribunal's mandate is inextricably tied to the provisions of the CHRA. Its role is not to provide oversight over all government activities or funding decisions. Its role is to apply the CHRA's protections against discrimination in the areas covered by the CHRA. In this case, IPCO has alleged discrimination in the provision of a service customarily available to the general public contrary to section 5 of the CHRA. Section 5 defines what a "discriminatory practice" is under the CHRA. The Tribunal's task is to adjudicate whether IPCO has made out a *prima facie* case of discrimination under section 5, whether the respondent has justified its actions, and whether any remedies are appropriate. More specifically, IPCO has alleged the following discriminatory practice: while PSC was providing a service to the nine member police forces that IPCO represents, PSC differentiated adversely against those member police forces based on the prohibited grounds of race and/or national or ethnic origin.

[24] The specifics of the discriminatory practices alleged by IPCO under section 5 of the CHRA are not yet clearly in focus despite the length and breadth of IPCO's pleadings to date. When parties prepare for a hearing, it is not uncommon for one or more of them and/or the Tribunal to seek clarification to ensure a fair and efficient process, as the two scope motions to date in this complaint reflect. Based on IPCO's SOPs and submissions to date, it appears that the service IPCO plans to establish is the implementation and application of the FNIPP. IPCO has described wide ranging policing-related needs and has made broad allegations of underfunding. For the complaint to be successful under the CHRA, IPCO must establish that the conduct set out in the summary of its complaint (see paragraph 8 above) amounts to adverse differentiation in the provision of services based on one or more

prohibited grounds of discrimination. Likewise, to succeed with its underfunding allegations, the CHRA requires IPCO to connect any alleged underfunding to the language of section 5. IPCO must show how its member police services have experienced adverse differentiation in relation to the provision of services by PSC, based on a prohibited ground, in relation to the underfunding it alleges.

VI. Analysis

A. Should I grant the PSC's motion to limit the temporal and subject matter scope of the complaint?

[25] Yes, in part. For the reasons detailed below:

- 1) I agree with PSC that the temporal scope of the complaint should be limited to the period from 2014 to the date of IPCO's amended SOP (November 7, 2024).
- 2) I also agree with PSC that it is appropriate to direct IPCO to remove from its SOP all open-ended language such as "including", "includes, but is not limited to", "among other things", "among others" and any other equivalents.
- 3) It is premature to strike allegations contained in IPCO's amended SOP regarding the impact of any FNIPP underfunding on policing infrastructure.

(i) Principles relating to scope motions and the parties' positions

[26] The role of the Tribunal on scope motions is to consider the documentation and submissions of the parties, determine what is the substance of the complaint. The Tribunal must also decide whether the definition of scope sought is connected to the substantive complaint and required to enable the Tribunal to inquire into the real issues in dispute: see, for example, *Casler v. Canadian National Railway*, 2017 CHRT 6 at para 10.

[27] As with all its actions, the Tribunal must balance the parties' rights to a full and ample opportunity to make their case with its obligation to conduct its proceedings in a fair,

proportionate and expeditious manner: see sections 48.9(1), 50(1) and 50(3)(c) of the CHRA; *Temate v. Public Health Agency of Canada*, 2022 CHRT 31 at paras 8–18.

[28] The discriminatory practice alleged by IPCO is adverse differential treatment on a prohibited ground during the implementation and application of the FNIPP by the PSC. IPCO submits that this discriminatory practice involved underfunding. In this motion, PSC asked the Tribunal to order IPCO to strike parts of its amended SOP to ensure proportionality and avoid prejudice to it. PSC submits that the time frame of the complaint should be limited to 2014–2024. PSC also asks the Tribunal to order IPCO to remove vague language from its amended SOP. Finally, PSC submits that IPCO’s allegations relating to the impact of underfunding on police facilities are not within the scope of the complaint as facilities-related funding occurs through the First Nations and Inuit Policing Facilities Program.

[29] IPCO submits that the complaint includes chronic underfunding that has been ongoing since 1991 and that PSC is attempting to avoid responsibility for its actions going back to that date. IPCO also submits that the Tribunal has previously allowed complex cases such as this to evolve as they progress. Lastly, IPCO notes that, prior to 2018, facilities were funded through the FNIPP.

(ii) Limits on temporal scope

[30] PSC submits that the time frame of the complaint should be limited to 2014–2024. I agree with PSC that IPCO’s scoping of the complaint back to 1991 and indefinitely forward in time is prejudicial. I also agree with PSC that it is reasonable to limit the time frame for IPCO’s allegations to the period from 2014 to the date of IPCO’s amended SOP (November 7, 2024). Such a time frame represents a fair time frame, and it is consistent with the Tribunal’s mandate to ensure proportionality in the use of its resources. As discussed below, the establishment of this time frame does not preclude IPCO from tendering some contextual or background evidence regarding the creation of the FNIPP or other significant events that predate the time frame of the complaint, as long as the probative value of the evidence (its ability to prove something important) outweighs any prejudice in hearing it.

a) Start of the time frame in 2014

[31] I do not agree with IPCO that the Tribunal has no power to set reasonable limits regarding the time frame for historical allegations such as IPCO's discriminatory underfunding allegations. As detailed above, the Tribunal is a publicly funded body with limited resources. It must manage the cases that come before it in a proportional and responsible way that is fair to all parties before it.

[32] I do not view this motion as an attempt by PSC to limit "how much their discriminatory actions can be reviewed by the Tribunal", as argued by IPCO. The Tribunal can and will carefully assess IPCO's allegations of discrimination in the provision of services as it has in the past: *Dominique (on behalf of the members of the Pekuakamiulnuatsh First Nation) v. Public Safety Canada*, 2022 CHRT 4 [*Dominique* CHRT], *aff'd* 2023 FC 267 (*Dominique* FC) appeal denied 2025 FCA 24. I see PSC's motion as an attempt to place reasonable limits upon this litigation to ensure that it can be completed in a reasonable time frame, in accordance with the Tribunal's mandate under the CHRA.

[33] I do not agree with IPCO that the time frame proposed by PSC is arbitrary. Instead, the 2014 start of the time frame aligns with the year in which the earliest report sought to be relied upon by IPCO was published. Even if that report was based on a period from 2012 to 2013, the fact remains that the report was published in 2014. Also, for most of IPCO member police services, the ten-year period proposed by PSC represents two five-year cycles of funding. In my view, a decade worth of evidence is sufficient for IPCO to establish its allegation that the PSC has engaged in a pattern of discriminatory underfunding of IPCO's member police services.

[34] I do not agree with IPCO that limiting its discriminatory underfunding allegations to a ten-year period would undermine its ability to present a full and complete case to the Tribunal. I am also not persuaded that section 50(1) of the CHRA precludes the Tribunal from setting reasonable limits on a party's ability to present evidence or make representations. The provision simply states that parties are to be provided a "full and ample opportunity, in person or through counsel, to appear at the inquiry, present evidence and make representations". In my view, the ten-year time frame provides IPCO with a full and

ample opportunity to present evidence in support of the “key issues” it identified in the summary of its complaint as well as its discriminatory underfunding allegations.

[35] IPCO argues that the remedies it has sought would require the presentation of evidence that dates back to the inception of the FNIPP in the 1990s. I disagree. As noted by PSC, all of the remedies sought by IPCO in its amended SOP are forward-looking, with the only exception being IPCO’s request for the maximum financial compensation permitted under subsections 53(2)(e) and 53(3) of the CHRA based on the total number of persons served by each of IPCO member services. In my view, an examination of ten years’ worth of allegedly discriminatory underfunding would be sufficient for me to rule upon the forward-looking public interest remedies sought by IPCO and the Commission.

[36] As for the financial remedies sought by IPCO, ten years’ worth of evidence will provide me with sufficient evidence from which to assess the appropriate financial compensation to be awarded under subsections 53(2)(e) and 53(3) of the CHRA if IPCO makes out its case. Any probative value that evidence of historical underfunding prior to 2014 would have for the financial remedy in this case is outweighed by the prejudice caused by hearing such evidence in terms of hearing length, the unavailability of evidence, etc. In my view, the more fundamental remedial issue will be whether it is appropriate for the Tribunal to award financial compensation totalling the maximum permitted under subsections 53(2)(e) and 53(3) of the CHRA multiplied by the total number of persons served by each of IPCO member services. That is an issue that is unaffected by the temporal scope of the complaint.

[37] I also do not agree with IPCO that starting the complaint’s temporal scope in 2014 would separate the discrimination claims from the necessary context of the FNIPP. Indeed, IPCO’s main concern is that the ten-year time frame proposed by PSC would prevent it from presenting historical and contextual evidence about the FNIPP’s establishment in 1991. Complaints made to the Tribunal can, and often do, include a historical context. The Tribunal can hear relevant parts of that historical context, without that meaning that the entire historical scope of an issue must fall within the scope of the complaint. Even if the scope of the complaint begins in 2014, some historical evidence may be relevant to provide context for the events of the last decade, as long as the probative value of such evidence outweighs

any prejudice in hearing it. For example, evidence about the FNIPP's origins, implementation and evolution over its history may be relevant to placing the FNIPP into its proper context. However, as noted above, the Tribunal is not intended to be a royal commission. Therefore, I will be setting reasonable limits for evidence that is being tendered to establish the context and background for the allegations that fall within the scope of the complaint.

[38] I am also not persuaded by IPCO's argument that setting a time frame of ten years would "ignore settled law in this area". To limit the temporal scope of IPCO's allegations to ten years does not mean disregarding previous related case law of this Tribunal or the courts.

[39] While I understand IPCO's desire to explore the historical context of the alleged discrimination, extending the temporal scope of the inquiry before 2014 is not proportional to its likely benefits. The prejudicial effect of engaging in an inquiry of historical underfunding from decades ago is significant. IPCO has already had difficulties producing evidence from decades ago. In addition, witness testimony is likely to be less reliable as it is well accepted that memories become less reliable with the passage of time. Also, in my view, assessing historical discriminatory underfunding allegations from decades ago will almost certainly prolong this proceeding substantially.

[40] Meanwhile, the probative value of such an inquiry is minimal. Even if I were to find discrimination during the period preceding 2014, it is improbable that such a finding would significantly change the remedy awarded if IPCO can establish discrimination that has persisted over the last decade. Therefore, it would be an inefficient use of everyone's time and resources to hear extensive evidence from multiple witnesses on discriminatory underfunding dating back to the 1990s. This approach strikes a balance, allowing for some contextual evidence while ensuring the proceedings remain focused and proportionate.

[41] None of the case law cited by IPCO is inconsistent with my conclusions detailed above. In particular, I am not persuaded by IPCO's effort to analogize its case to *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2016 CHRT 2 [FNFCSC]. The

complaint in that case was referred to the Tribunal in 2008 and remains ongoing today. The presiding member of each complaint manages it based on the specifics of the complaint before them. The circumstances of each case are different. Just because one approach may be reasonable in one case does not mean it is the most appropriate approach for all cases. Moreover, in my view, if all complaints before the Tribunal took over 17 years to resolve, the Tribunal could not carry out its mandate to provide accessible justice, as well as timely and efficient adjudication for the many parties that come before it. I recognize the importance of understanding the historical context of systemic complaints. As described in the above paragraphs, the approach I have taken here allows for such an understanding while also emphasizing the importance of timely and effective resolution of this complaint. Finally, there is a distinction between permitting some evolution in the scope of a complaint (as was done in *FNFCSC*) and allowing a party to leave significant material facts vague or to be fleshed out at the hearing. The latter is more likely to be prejudicial as it prevents the other parties and the Tribunal from properly preparing for the hearing.

[42] I also do not find that the Tribunal's decision in *Karas v. Canadian Blood Services and Health Canada*, 2021 CHRT 2 [*Karas*] assists IPCO with its argument. In that case, the Tribunal stated that the Commission's referral letter must be read in the context of the proceedings before the Commission. The decision does not speak to permitting the entire history of allegations to be included within the scope of a complaint. In fact, the Tribunal in *Karas* **granted** the respondent's request to strike allegations from the SOPs filed by the complainant and the Commission on the basis that the allegations had no nexus to the complaint.

[43] I do not find that this ruling is inconsistent with the Supreme Court's judgment in *Reference re An Act respecting First Nations, Inuit and Métis children, youth and families*, 2024 SCC 5. In that case, the Supreme Court emphasized that reconciliation requires full consideration of First Nations' concerns. I do not consider this ruling to be inconsistent with the principle that Indigenous perspectives on the historical and present context of the dispute at hand should be given full consideration. This scope ruling leaves room for necessary, important contextual evidence while ensuring that the consideration of the complaint remains proportional and fair to all parties.

[44] For the above reasons, I agree with PSC that the relevant time frame for IPCO's complaint should be limited to the period beginning in 2014.

b) End of the time frame in November 2024

[45] I agree with PSC that the appropriate end date for the complaint's time frame is the date of IPCO's amended SOP.

[46] When a complaint alleges ongoing discrimination, the Tribunal must set an appropriate end date for its inquiry. The reason for this is that the parties have ongoing disclosure obligations. The Tribunal is flexible in its practices and procedures when doing so will "secure the informal, expeditious and fair determination" of a proceeding (Rule 5 of the Rules of Procedure). That said, it is not feasible for the Tribunal to have to address any and all new materials and allegations being filed by the parties as the proceeding unfolds. If the Tribunal did not impose an end date in cases involving ongoing allegations, such cases would have a potentially unlimited scope and hearings might never end. Permitting complaints with an unlimited scope would render the Tribunal's caseload unmanageable over time and impede access to justice for complainants seeking to file new complaints under the CHRA.

[47] In my view, the *Warman v. Winnicki*, 2006 CHRT 20 case cited by IPCO is distinguishable from the circumstances in this case. The case dealt with allegedly hateful material posted by the respondent on the internet, contrary to a now repealed provision of the CHRA. In the decision, the Tribunal permitted the Commission to tender evidence regarding additional similar materials posted online after the Tribunal had already allowed it to amend the complaint to address the newly found materials. None of the parties made arguments about the principle of proportionality as there was no prejudice associated with admitting the newly found materials as evidence. Therefore, the Tribunal did not have to address whether there is a point at which the Tribunal must impose a cut-off date for allegations as a matter of proportionality and procedural fairness.

[48] In my view, limiting the end date of the time frame for this complaint to the date of IPCO's amended SOP is appropriate and consistent with the Tribunal's mandate to conduct this proceeding in a fair, expeditious and proportional manner.

(iii) Subject matter scope

a) Impact of allegedly discriminatory underfunding on infrastructure

[49] It is premature to strike allegations in IPCO's amended SOP relating to how any discriminatory underfunding impacted the policing infrastructure of its member services. While I understand PSC's argument that infrastructure investments now fall under a separate cost-sharing program, it is not clear that IPCO's allegations fall outside the scope of the complaint. This is particularly true given that, according to IPCO, the separate program for infrastructure was only established in 2018 and that policing facilities were funded through the FNIPP prior to that time. Notwithstanding the above, I do agree with PSC that any allegations of discrimination related to the implementation and application of the separate cost-sharing program that governs infrastructure investments is beyond the scope of the complaint, since such a program is not mentioned anywhere in IPCO's complaint or amended SOP.

b) Vague open-ended language in IPCO's amended SOP

[50] I agree with PSC that vague language that could act as a placeholder for further allegations must be struck from IPCO's amended SOP.

[51] The importance of setting clearly defined boundaries in the SOP is critical in cases such as this one which is expansive in scope and could easily become unmanageable if not properly managed at the outset. The purpose of an SOP is to disclose a party's position to other parties and to permit other parties, and the Tribunal, to know in advance the allegations, questions of law, remedies and defences that may be raised in a case. The PSC has a right to know the case it has to meet and a right not to be surprised by new allegations being added late in the proceeding. Likewise, IPCO has a right to know the material facts on which PSC intends to rely to defend this case. Just as it would not be appropriate for

PSC to state in its SOP that it will take certain positions “including” position X or position Y, it is also not appropriate for IPCO to use such language which implies the possibility that IPCO will seek to add further particulars and allegations later in the proceeding.

[52] To the extent that IPCO may have used such language due to the allegedly ongoing nature of their allegations, this is addressed by my finding above that the end date for the complaint’s time frame is the date of IPCO’s amended SOP. Events alleged to have occurred after the amended SOP’s date are beyond the time frame of this complaint and thus outside its scope.

[53] For the above reasons, IPCO must delete from its amended SOP all open-ended language such as “including”, “includes”, “but is not limited to”, “among other things”, “among others” and any other equivalents.

(iv) PSC’s motion is not an abuse of process

[54] IPCO argued that PSC’s motion amounted to an abuse of process. I disagree. As noted above, IPCO’s amended SOP was greatly expanded from its original one. I do not agree with IPCO that PSC could have foreseen the scope of the additional particulars that IPCO would add to its SOP after the Tribunal denied PSC’s initial motion. Moreover, for the reasons set out above, I find that it is appropriate to grant PSC’s motion. Therefore, I do not find that it was an abuse of process.

(v) Summary regarding scope motion

[55] For all of the above reasons, I grant PSC’s motion to limit the time frame of the complaint to the period from January 1, 2014, to November 7, 2024. I also order all instances of open-ended language to be struck from IPCO’s amended SOP. I find it premature to strike allegations relating to the impact of the alleged discriminatory underfunding on the policing infrastructure of IPCO’s member services.

B. Is it appropriate to grant IPCO leave to call more than five expert witnesses?

[56] No. In my view, it is not appropriate to grant such leave.

(i) Background to motion

[57] In its initial SOP, IPCO listed 38 proposed witnesses. It did not identify any expert witnesses. IPCO filed an amended witness list with its amended SOP which listed 30 lay witnesses and 14 proposed expert witnesses.

[58] In my January 2025 case management conference call with the parties, I questioned whether all of the expert witnesses proposed by IPCO were properly considered expert witnesses. Based on the summary of their expected evidence, it appeared that many were expected to testify to facts, not expert opinion. IPCO's counsel indicated that many of the expert witnesses fell into a grey zone between being an expert witness and a lay witness testifying about factual matters. In the call, I also questioned whether it was necessary to call some of the proposed expert witnesses as it appeared that some were being called simply to summarize reports they had authored. I suggested that the reports themselves could be tendered as proposed evidence. Finally, I informed IPCO's counsel that IPCO would require leave to call more than five expert witnesses due to section 7 of the *Canada Evidence Act*, R.S.C., 1985, c. C-15 (CEA).

[59] Along with its motion, IPCO filed a revised list of seven proposed expert witnesses with leave being sought to call two of the witnesses: Norman Taylor and David Milward. It reclassified four of the witnesses as lay witnesses. IPCO also withdrew three other proposed expert witnesses, saying that it would rely upon reports authored by two of them instead of calling them to testify at the hearing. IPCO has listed 33 lay witnesses and seven proposed expert witnesses in the most recent version of its witness list.

(ii) Legal framework

[60] The Tribunal must balance the parties' rights to a full and ample opportunity to make their case with its obligation to conduct its proceedings fairly and expeditiously (see

sections 48.9(1), 50(1) and 50(3)(c) of the CHRA). Section 7 of the CEA precludes parties to a proceeding like this one from calling more than five expert witnesses without leave of the decision maker in the case.

[61] The Tribunal itself has very little case law applying this section. In *P.S.A.C. v. Northwest Territories (No. 9)*, 2001 CanLII 61083, a panel of the Tribunal confirmed that section 7 of the CEA applied to a hearing before the Tribunal. However, it acknowledged that the issue was “new territory” for the Tribunal. In its subsequent decision, the panel considered whether an expert’s testimony was needed to determine one of the factual issues in the case. It added that this would exclude testimony that undermines the fairness or expeditiousness of the process: *P.S.A.C. v. Northwest Territories (No. 10)*, 2001 CanLII 61120 at paras 5–6.

[62] More detailed guidance can be found in the Federal Court’s case law over the years following the 2001 *P.S.A.C.* decisions. The Court has found that the purpose of section 7 of the CEA is, at least in part, to prevent the abuse, trouble, expense and delay caused by the excessive use of expert evidence. In applying section 7, the Court has considered the following factors: (i) whether more than five experts are necessary for a determination of the issues, (ii) whether calling more than five experts would lead to unnecessary duplication in the evidence and (iii) whether it would cause additional strain on the time and resources of the Court and the parties than is justified: *Eli Lilly and Co. v. Apotex Inc.*, 2007 FC 1041 at para 29.

[63] Rule 52.4 was added to the *Federal Court Rules*, SOR/98-106, in or around 2010 and can be seen as a codification of the parameters regarding the application of section 7 of the CEA. In assessing requests for leave to call more than five expert witnesses under Rule 52.4, the Court must consider all relevant matters including: (i) the nature of the litigation, its public significance and any need to clarify the law; (ii) the number, complexity or technical nature of the issues in dispute; and (iii) the likely expense involved in calling the expert witnesses in relation to the amount in dispute in the proceeding: Rule 52.4 of the *Federal Court Rules*. The Federal Court has held that the burden imposed on the party seeking to call more than five expert witnesses is considerable as the factors set forth under

Rule 52.4 impose a “high threshold”: *Apotex Inc. v. Sanofi-Aventis*, 2010 FC 1282 at para 20.

[64] The Court has found that, to be fair and equitable to the parties, a ruling on a motion for leave to call more than five expert witnesses must be proportionate and strike a proper balance. It must also serve the best interests of justice in assuring the prompt conduct of the proceeding at an efficient cost, considering the number, complexity or technical nature of the issues in dispute: *Airbus Helicopters v. Bell Helicopter Textron Canada Limitée*, 2016 FC 590 at para 63.

[65] In my view, the above factors and principles are no less applicable to the Tribunal context. In fact, they may be even more applicable as legislatures have entrusted issues such as human rights to administrative tribunals, rather than courts, to ensure that decisions are made promptly, flexibly and efficiently, and using a simplified and streamlined process intended to promote access to justice: *Vavilov* at para 29.

(iii) Application to this case

[66] I am not persuaded that it is appropriate to grant IPCO leave to call more than five expert witnesses in this case. In particular, I do not find it appropriate to grant it leave to call the two experts named in its motion.

[67] IPCO submitted that the decisive question is whether it needs the evidence of the two additional experts to present its case. I do not agree with IPCO that the only factor for me to consider is whether it needs the testimony of more than five expert witnesses. Instead, it is necessary to conduct a more fulsome inquiry balancing the factors set out in paragraphs [62] and [64] above. Overall, I must consider whether granting IPCO’s motion would strike a proper balance and serve the interests of justice in assuring the fair and prompt conduct of the proceeding at an efficient cost, considering the complexity of the issues in dispute.

[68] I recognize that the issues raised in this case are of great significance, not only to IPCO and its member police services, but also to First Nations communities who depend on those services and the public generally. However, I must still balance the different factors set out above to determine whether permitting IPCO to call more than five expert witnesses

serves the best interests of justice. This includes assuring the fair and prompt conduct of the proceeding at an efficient cost, considering the number and complexity of the issues in dispute.

a) *Norman Taylor*

[69] I start by recognizing that Mr. Taylor is an accomplished individual who might otherwise be qualified to provide expert testimony in legal proceedings. That said, IPCO has not persuaded me that it is appropriate to grant it leave to call Mr. Taylor as an expert witness in addition to the other five expert witnesses it wishes to call in this proceeding.

[70] IPCO proposes to have Mr. Taylor testify on the following topics:

- 1) The characteristics of “community-centred” policing, and how these characteristics are supported in Indigenous communities;
- 2) The indicia of “community safety and well-being”, including the factors that are most relevant to how a community is policed;
- 3) How self-administered First Nations police services address community safety and well-being compared to non-Indigenous police services; and
- 4) How a community-centred approach to policing affects the health and well-being of police officers and staff.

[71] While I agree with IPCO that this case is complex and of significant public interest, it has not persuaded me that, weighing the factors above, it is appropriate for me to permit it to call Mr. Taylor as an expert witness. I draw this conclusion especially due to the substantial duplication between his evidence and the evidence of other witnesses that IPCO intends to call. In my view, permitting IPCO to call Mr. Taylor would likely cause more strain on the time and resources of the Tribunal than is justified given the likely duplication between his testimony and that of other witnesses.

[72] According to IPCO, Mr. Taylor is expected to testify as to how federal policing laws, policies, funding and other actions impact the role and capacity that police services can have

in community safety and well-being. However, IPCO also intends to call many other witnesses, both expert and lay witnesses, who will address substantially similar issues. In particular, as acknowledged by IPCO, Mr. Taylor's proposed evidence overlaps with the proposed evidence of another proposed expert witness, Professor Naiomi Metallic. Like Mr. Taylor, Professor Metallic has experience with approaches to First Nations community safety. Her proposed evidence will address, among other things, the well-being and self-determination of Indigenous peoples in Canada and the challenges that communities experience with Indigenous policing and law enforcement.

[73] Although IPCO seeks to draw distinctions between Mr. Taylor's proposed evidence and that of Professor Metallic, I am not persuaded that those differences are significant in relation to the issues I must determine in this case. For example, IPCO argues that Mr. Taylor can speak to how a community-centred approach to policing impacts the well-being and health of officers and staff. I must note that most of the references to mental health in IPCO's SOP relate to mental health crises within the communities served by IPCO member services. It appears that IPCO intends to argue that the allegedly discriminatory underfunding of IPCO member services has negatively impacted the health and well-being of police officers. At most, this is a secondary issue about the effects of the alleged discrimination in this case.

[74] In my view, Mr. Taylor's evidence on this point will likely overlap with that of other witnesses. Significantly, IPCO proposes to call another expert witness, Meredith Brown, who is expected to speak directly to the issue of the mental health and well-being of police officers employed by IPCO member services. IPCO will also be calling at least 16 lay witnesses (eight witnesses from self-administered police boards and eight chiefs of police of self-administered police services) who will themselves be well placed to provide relevant evidence on the health and well-being of police officers.

[75] As a final point, I am also not persuaded by IPCO's argument that Mr. Taylor's proposed evidence about how policing nurtures or degrades community safety and overall well-being differs from the evidence of other witnesses. Specifically, I am not persuaded that Mr. Taylor's evidence will substantially differ from the evidence of other witnesses such as Professor Metallic and many of IPCO's lay witnesses who will speak to that topic.

[76] For the reasons above, IPCO has not met its onus of establishing that it is appropriate for me to grant it leave to call Mr. Taylor as an expert witness in this case.

b) David Milward

[77] As with Mr. Taylor, I recognize that Professor Milward is an accomplished academic who is qualified to provide expert testimony in legal proceedings and who has, in fact, provided expert evidence in another proceeding before this Tribunal. However, I do not find it appropriate to grant IPCO leave to call him as an expert witness in this case.

[78] IPCO proposes to have Professor Milward testify on the following topics:

- 1) What differentiates police services that are staffed and operated by First Nations from non-First Nations police services;
- 2) The significance of historical traumas on present experiences and assessments of policing among First Nations individuals and within First Nations communities;
- 3) The relationship between theories and practices of “community policing” and specific Indigenous laws, principles and practices regarding community safety and well-being; and
- 4) What this means in terms of requirements for rebuilding and sustaining approaches to policing that are both “culturally appropriate” and effective.

[79] Overall, I would summarize Professor Milward’s expert report as addressing the many benefits of having police services staffed and operated by Indigenous communities themselves instead of having Indigenous communities being policed by non-Indigenous police services. However, that topic and the subtopics listed in the previous paragraphs are covered in substance by several of IPCO’s other proposed expert and lay witnesses. As recognized by IPCO, Professor Milward’s proposed evidence overlaps with that of Professor Metallic as both will address topics relating to the importance of Indigenous self-determination in relation to policing. In addition, another witness, Kyrie Tristary, who IPCO originally intended to call as an expert witness but reclassified as a lay witness is expected

to testify to the challenges of ensuring Indigenous community safety, the importance of self-governance and inherent jurisdiction over policing. As well, one of IPCO's other proposed expert witnesses, John Kiedrowski, is expected to address Indigenous self-governance as it relates to policing.

[80] IPCO also argues that Professor Milward belongs to a Cree community and understands Cree legal principles. IPCO submits that, despite their differences from the diverse communities represented by IPCO's member services, Cree legal principles and approaches to harm and well-being are "closely related" to those upheld in many of the communities served by IPCO members. I find it more relevant to hear from the many Indigenous witnesses IPCO intends to call from the actual communities served by IPCO members about their views on community policing and approaches to harm and well-being in their own communities.

[81] In my view, permitting IPCO to call Professor Milward would likely cause more strain on the time and resources of the Tribunal than is justified given that his testimony substantially duplicates the testimony of other proposed witnesses. Thus, the additional time and resources it would take to hear his testimony are not justified.

[82] In support of its motion, IPCO seeks to rely primarily upon the Federal Court's decision in *St. Theresa Point First Nation v. Canada (Attorney General)*, 2025 FC 382 [*St. Theresa Point*]. In my view, the circumstances of this case are significantly different than those in that case. In *St. Theresa Point*, the Court was dealing with a summary judgment motion in relation to a set of factual and legal issues that have never before been addressed. The *St. Theresa Point* case is a class action proceeding that sought to address inadequate housing on reserve and its resultant impacts on the class action members. The case involves a wide range of legal issues, including the scope of fiduciary duties and whether any rights under the *Canadian Charter of Rights and Freedoms* were breached if the Attorney General of Canada were found negligent. The Court granted the plaintiffs' request to file 12 expert reports not only because of the complexity of the claim, but also because the historical context and issues raised in the claim had never before been considered by the Court. Because of this, the Federal Court found that there was a need to clarify the state of the law regarding whether Canada owes a duty to First Nations for on-reserve housing.

By contrast, legal issues that overlap with those in this case have been addressed before in the *Dominique* litigation, albeit in a different provincial context. In addition, as discussed below, issues that are related to the discrimination issue raised in this case have also been addressed by courts up to and including the Supreme Court in the *Takuhikan c. Procureur général du Québec*, 2019 QCCS 5699, rev'd 2022 QCCA 1699, appeal denied 2024 SCC 39 [*Takuhikan*]. Therefore, this Tribunal is not in the same position as the Court was in *St. Theresa Point*.

[83] For the above reasons, IPCO has not met its burden to persuade me that it is appropriate to permit it to call more than five expert witnesses. In particular, it has not persuaded me that it is appropriate to permit it to call Mr. Taylor and Professor Milward as expert witnesses in this case.

[84] Nothing in this ruling should be taken as granting IPCO permission to call the other five witnesses it proposes to call as expert witnesses or any of IPCO's other proposed witnesses. I will address the issue of witness testimony with the parties in case management as we discuss the best way to secure the informal, expeditious and fair determination of this inquiry on its merits.

C. Should I order IPCO to provide the additional particulars and documents sought by PSC?

[85] Yes, in part. Some, but not all, of the particulars and documents requested by PSC are arguably relevant and must be disclosed.

(i) Background to motion

[86] PSC made a request for particulars and documents from IPCO in November 2024 after the previous member denied its motion to strike certain portions of IPCO's amended SOP. IPCO responded to the request for particulars by providing some of the requested information and documents, refusing to provide other information and documents, stating that it did not have some of the requested information, or stating that it would provide additional information from some of its members services as it became available.

[87] PSC brought this motion for further and better particulars and documents as it found the particulars and documents provided by IPCO to be insufficient to permit it to know the case it must meet. In its response to PSC's motion, IPCO provided some particulars and raised some examples of alleged events that support the assertions contained in its amended SOP. In addition, it took the position that many of the particulars and documents sought by PSC are already within its possession, power or control. Finally, according to IPCO, it cannot provide other particulars or documents because they were lost or never collected due to the alleged underfunding of their member services.

(ii) Legal framework

[88] Among other things, complainants are required to include in their SOP the facts they intend to prove in support of their complaint and a list of all the documents in their possession that relate to a fact or issue that is raised in the complaint or to an order sought by any of the parties: Subrules 18(1)(a)–(f) of the Rules of Procedure.

[89] Pursuant to subsection 50(1) of the CHRA, parties before the Tribunal must be given a full and ample opportunity to present their case. To be given this opportunity, parties require, among other things, the disclosure of arguably relevant information in the possession of the opposing party prior to the hearing of the matter. They also require sufficiently detailed material facts and pleadings to enable a party to know its case to meet. A complainant's pleadings must be sufficient to tell the respondent "Who, when, where, how, and what gave rise to its liability": *Mancuso v. Canada (National Health and Welfare)*, 2015 FCA 227 at para 19.

[90] The party seeking the disclosure must demonstrate that the information sought is arguably relevant to a fact, issue or form of relief identified by the parties in the matter. However, this is not a high standard: *Egan v. Canada Revenue Agency*, 2017 CHRT 33 at para 40.

[91] As it is with all matters related to the Tribunal's proceedings, the standard of arguable relevance in determining disclosure obligations should be balanced by considerations of proportionality. Requests for information must not be speculative or amount to fishing

expeditions. The Tribunal may deny ordering the disclosure of information where the prejudicial effect on the proceedings of ordering the disclosure would outweigh the likely probative value of the requested information. Notably, the Tribunal has recognized that it should be cautious about ordering searches where a party to the litigation would be subjected to an onerous and far-reaching search for documents, especially where ordering disclosure would risk adding substantial delay to the efficiency of the inquiry or where the documents are merely related to a side issue rather than the main issues in dispute: see *Brickner v. Royal Canadian Mounted Police*, 2017 CHRT 28 at para 8 and *Dominique (on behalf of the members of the Pekuakamiulnuatsh First Nation) v. Public Safety Canada*, 2019 CHRT 21 at para 10.

(iii) Application to this motion

[92] I provide my overarching reasons for my findings in the paragraphs that follow and make rulings with respect to the specific requests for particulars and documents made by PSC in the Appendix that forms part of this ruling.

a) Same disclosure obligations apply to systemic discrimination claims

[93] In its response to PSC's motion, IPCO argues that the Tribunal must be flexible when dealing with cases raising allegations of systemic discrimination. It argues that the Tribunal must approach this motion with flexibility and with an understanding of the circumstances of its member services. IPCO argues that the information sought by PSC is unreasonable and unnecessary and that it has already pled significant material facts and filed voluminous documentary evidence that is sufficient to make out the discrimination it has alleged.

[94] In making this argument, IPCO seeks to rely upon this Tribunal's rulings in *Desmarais v. Correctional Service of Canada*, 2014 CHRT 5 [*Desmarais*] and *Starblanket v. Correctional Service of Canada*, 2014 CHRT 29 [*Starblanket*]. However, both of those cases are distinguishable. The *Desmarais* case addresses a scope motion and not parties' pleadings and disclosure obligations. Likewise, *Starblanket* is primarily a ruling about the scope of a complaint and the extent to which historical or contextual evidence should be

permitted. The decision does not imply that the obligations set out in the Rules of Procedure apply differently in cases involving allegations of systemic discrimination.

[95] The Tribunal must take a flexible and reasonable approach in all cases, whether those cases involve allegations of systemic discrimination or individual forms of discrimination. The approach taken by the Tribunal must also be fair to all parties. I am sensitive to the fact that IPCO represents nine member services that are alleged to be underfunded and under-resourced. However, I also agree with PSC that the Tribunal cannot allow a case with insufficiently particularized pleadings to go forward based on a desire to be flexible.

[96] In fact, the rules around sufficient pleadings and disclosure may be particularly important for cases alleging systemic discrimination due to the greater prospect that they will involve a multitude of diffuse and potentially evolving allegations that may not be adequately particularized. As noted by PSC, IPCO is seeking what may be billions of dollars in compensation in this case. Thus, it is of considerable importance that the other parties and the Tribunal have a clear understanding of the material facts being pled by IPCO before the case moves forward.

b) Arguable relevance not limited to any party's legal strategy

[97] It is well accepted that parties must disclose all arguably relevant information, whether or not they intend to rely upon this information and whether or not it is helpful to their case. Determinations of arguable relevance are made in relation to the facts, issues and remedies sought in the case, not in relation to either side's strategy for making out their case.

[98] Based on their submissions to date, it appears that IPCO and PSC are approaching the case in very different ways. It appears that IPCO intends to establish discrimination, including allegedly discriminatory underfunding, based on available documentation, various examples of events that have occurred, and witness testimony (including a heavy reliance on expert testimony). Meanwhile, it appears that PSC intends to defend itself from the underfunding component of IPCO's discrimination allegations by relying upon a review of

data regarding the needs of the various communities served by IPCO member services versus the resources available to each of these services.

[99] In its response to this motion, IPCO argues that, contrary to PSC's assertion that proving discrimination requires significant scrutiny of context-specific data, the systemic nature of the discriminatory underfunding in this case can be established based on available documentation and historical incidents as well as witness testimony. In my view, this argument confuses two issues. It confuses, on the one hand, the evidence that may be required for IPCO to make out its onus of establishing discrimination and, on the other, IPCO's obligation to provide sufficient particulars and to disclose all arguably relevant documents.

[100] In ruling upon this motion, I am not addressing what may or may not be sufficient evidence for IPCO to make out its case, or even the weight to be given to any documents if they are admitted into evidence. Those will be issues that I must address once I have heard the evidence at the hearing. The only issue I am deciding at this point is whether the particulars and documents requested by PSC are arguably relevant to the facts, issues and remedies sought in this case and whether they must be disclosed. Therefore, it is not relevant that IPCO views the particulars and documents sought by PSC as unnecessary for IPCO itself to prove its case. The particulars may in fact be necessary to the defence that PSC wishes to advance. That is why the Tribunal does not look at whether the particulars and documents are arguably relevant to any particular party's legal strategy but instead examines whether they are arguably relevant to any fact, issue or remedy sought in the case.

c) Information that is already within PSC's possession, power or control

[101] IPCO has argued that many of the particulars sought by PSC are already contained within documents that are within PSC's possession, power and control. Specifically, IPCO argues that many of the particulars sought by PSC are contained within the tripartite funding agreements signed by PSC, most of which appear to have been produced by IPCO with its initial and amended SOPs. In response, PSC seeks to rely upon a portion of the Tribunal's

adjournment ruling to argue that IPCO is required to produce the particulars sought whether or not it (PSC) already has access to the information or has some awareness of it: *Liu – Adjournment Ruling* at para 35.

[102] In the paragraph from the adjournment ruling that PSC seeks to rely upon, the Tribunal was referring to **documents**. The member stated that the disclosure obligations set out in rules dealing with SOPs (Rules 18–20 of the Rules of Procedure) apply whether or not documents are publicly accessible or in the other party’s possession: *Liu – Adjournment Ruling* at para 35. I agree with this conclusion as a general proposition. However, I do not find that it applies to **particulars** sought by a party that can be found in the documents that already have been produced by another party. That said, the Tribunal must be cautious to avoid simply accepting a party’s assertion that the requested information is within the knowledge of another party if that assertion is contested by the other party. I note that PSC did not specifically contest IPCO’s assertion that some of the information it requested is found in the tripartite agreements signed by it and other documents disclosed by IPCO.

[103] I do not find it fair or reasonable to require PSC to search for publicly available information that is not contained in the documents already disclosed by IPCO. However, I also do not find it to be proportionate to order IPCO to produce information to which PSC has ready access. Accordingly, I have denied some of PSC’s requests for particulars or documents that appears to be readily available to it as a party to the tripartite funding agreements or because the information being sought is contained in documents already disclosed by IPCO. If the information being sought is not readily available to PSC for the items in question, PSC’s counsel is encouraged to attempt to resolve the matter directly with IPCO’s counsel. If the parties cannot achieve a resolution, PSC may raise the issue at a future case management conference call.

d) Parties are only obligated to produce information in their possession

[104] Parties are not required to generate or create information to respond to requests for disclosure: see, for instance, *Peters v. Peters First Nation*, 2023 CHRT 40 at para 14. They

are only required to produce documents and other materials that are in their possession: Rules 18–20 of the Rules of Procedure. IPCO has submitted that its member services have not had the resources to collect some of the information requested by PSC. For other requests, IPCO has indicated that relevant documents have been lost due to fire or shredded as part of a service’s normal shredding schedule.

[105] If that is the case, IPCO does not have an obligation to generate or create information that does not exist. It is sufficient for IPCO to confirm that it has produced all of the documents within its possession, or the possession of its member services, that fall within a particular category of documents I have ordered to be produced.

e) Examples are not complete material facts or complete particulars

[106] PSC has argued, and I agree, that in many cases instead of providing a complete response to PSC’s request for particulars, IPCO has provided only examples of the particulars being sought. Specifically, instead of providing complete particulars in response to some of PSC’s requests, IPCO provided examples of events that have occurred which relate to the particulars being sought. I agree with PSC that the provision of examples falls short of IPCO’s disclosure obligations under the Rules of Procedure. IPCO must provide the complete particulars that it intends to rely upon or confirm that the particulars already provided represent the complete material facts they will rely upon in this proceeding.

f) Information must be disclosed now, not at the hearing

[107] For some of the particulars sought by PSC, IPCO has responded that the particulars will be provided by their witnesses at the hearing. I agree with PSC that arguably relevant particulars and documents must be produced now, not at a hearing. The disclosure obligations discussed above are **pre-hearing** disclosure obligations. They are aimed at permitting the other parties to know the case to be met. The other parties must know the case to be met in advance of the hearing to be able to conduct appropriate research, speak to relevant witnesses, and prepare their case in advance of a hearing. The provision of sufficient particulars in advance of a hearing is also necessary for the Tribunal to know the

case to be adjudicated. A Tribunal member will not be in a position to make appropriate rulings or case management decisions if they do not have a clear understanding of the complete material facts being alleged by the parties and the cases each intends to put forward. I agree with PSC that, if IPCO does not disclose relevant particulars and documents now, it will lead to greater delays in the future.

g) Rule 37 of the Rules of Procedure

[108] The Rules of Procedure are meant to prevent surprises and the procedural unfairness that may be caused by inadequate disclosure early in the Tribunal's process. Rule 37 precludes a party from raising issues or calling evidence that has not been disclosed in accordance with the Rules of Procedure. Therefore, a party may not be permitted to introduce new allegations or issues late in the proceedings or at the hearing if doing so would unfairly prejudice the opposing party. This is because the other party must have a reasonable opportunity to know and respond to the case against them.

h) Proportionality

[109] Many of PSC's documentary requests are very broadly framed. As noted above, the Tribunal should be cautious about ordering searches where a party or a stranger to the litigation would be subjected to an onerous and far-reaching search for documents, especially where ordering disclosure would risk adding substantial delay to the efficiency of the inquiry. While I have granted many of PSC's requests for documentary disclosure, I have narrowed the scope of the documents that must be provided to ensure proportionality between the relevance of the documents and the prejudice and delay that a far-reaching search for documents by IPCO member services would cause to them and this proceeding.

[110] In addition, many of the additional requests for disclosure made by PSC in its written submissions in support of its motion are more in the nature of arguments that PSC intends to make at the hearing. For example, in response to a comparison made by IPCO between its services and police services in Toronto, PSC asks for material facts as to why IPCO considers an urban area like Toronto to be an appropriate comparator for IPCO member

services. In my view, this is not so much a proper request for particulars as an argument that Toronto is not an appropriate comparator for IPCO services. That is an argument PSC can make at the hearing.

[111] I also acknowledge that PSC has requested yet additional particulars that flow from the particulars provided by IPCO in response to PSC's request for particulars (e.g., paras 39–44 of PSC's written submissions in support of its motion). The most efficient way to deal with these additional requests is through direct discussions between the parties or case management once IPCO has complied with the orders in this ruling. The reason for this is that further questions may be raised by some of the particulars provided by IPCO in response to this ruling. Therefore, it would be most efficient to deal with all additional issues relating to particulars at the same time.

[112] Also, while PSC is entitled to know the case it has to meet, a balance must be struck when determining the level of detail that is required for it to know the case it has to meet. It is always possible for a party to request increasingly detailed and granular information. However, at a certain point, the principle of proportionality must be applied to ensure that probative value of the details sought outweighs the prejudice caused to other parties and the proceeding itself of ordering a party to produce them. For this reason, it is my view that any additional requests for particulars are best dealt with, at least initially, through direct discussions between PSC and IPCO counsel. In the event that not all requests are resolved in this manner, a party may ask that the issue be added to the agenda of a future case management conference call.

i) Time period for disclosure

[113] In accordance with my ruling above about the time frame for this complaint, IPCO must only disclose the particulars and documents I have ordered in the Appendix for the time period from January 1, 2014, to November 2024.

[114] I apply the above findings to the disclosure requests made by PSC in the Appendix that forms part of this decision.

D. Should the doctrines of issue estoppel or abuse of process be applied to prevent the PSC from contesting certain factual and legal findings made in other proceedings?

[115] No. However, as discussed in more detail below, the prior factual and legal findings made in other related proceedings may have an important bearing on my findings in this case.

(i) Background to request

[116] IPCO argues that PSC should be estopped from contesting (that is, it should not be allowed to contest) key factual and legal findings arising out of the various decisions issued in two other related cases: the *Dominique* litigation and a civil action undertaken in Quebec. The latter addressed whether the Quebec and Canadian governments had failed to comply with their duties relating to the honour of the Crown and contract law-based obligations of good faith under the Quebec Civil Code in their FNIPP-related dealings with the Pekuakamiulnuatsh Takuhikan, the band council for the Pekuakamiulnuatsh First Nation: *Takuhikan*.

[117] In its SOP and in this motion, IPCO argues that the doctrine of issue estoppel precludes PSC from contesting the following key findings:

- a) That the FNIPP is a “service” within the meaning of section 5 of the CHRA;
- b) That the FNIPP is discriminatory, as found by the Tribunal in *Dominique* CHRT;
- c) That Canada not only discriminates through the FNIPP, but that Canada breached its obligations relating to the honour of the Crown towards Indigenous beneficiaries of the service;
- d) That Canada discriminates against Indigenous peoples through chronic underfunding of the FNIPP and through discriminatory terms that contravene the policy that governs the FNIPP; and

- e) That the FNIPP is not just a “discretionary contribution program” that affords PSC the discretion to underfund Indigenous communities based on terms it chooses to impose.

[118] In the alternative, IPCO argues that, if I find that the doctrine of issue estoppel does not apply, I should find that it would be an abuse of process for PSC to attempt to relitigate issues that have already been determined by binding precedent.

(ii) The doctrine of issue estoppel does not apply

[119] The doctrine of issue estoppel applies to prevent a party from relitigating a matter that was already determined in a prior proceeding to which that person, or their privy, was a party. The preconditions to the operation of issue estoppel are the following:

- 1) That the same question has been decided;
- 2) That the judicial decision which is said to create the estoppel was final; and,
- 3) That the parties to the judicial decision or their privies were the same persons as the parties to the proceedings in which the estoppel is raised or their privies:
Danyluk v. Ainsworth Technologies Inc, 2001 SCC 44 at para 25 [*Danyluk*].

[120] If the above conditions are met, the decision maker must still determine whether they should exercise their discretion to apply the doctrine of issue estoppel: *Danyluk* at para 33.

[121] IPCO has failed to establish the first and third elements of the test for issue estoppel for the findings to which it seeks to apply the doctrine. To begin, IPCO has failed to establish that the same questions must be decided in each case. The *Takuhikan* civil action in Quebec did not deal with discrimination, but instead with the honour of the Crown and the obligation of good faith in the law of contract under the Quebec Civil Code. These are legal issues that have not been put in issue in this case, that I have no power to decide and that are not necessary to decide to determine whether a discriminatory practice has occurred under the CHRA.

[122] The issues in this case are also not the same as the issues decided in the *Dominique* litigation. This case deals with whether PSC discriminated against the nine police services represented by IPCO in Ontario through the imposition of discriminatory terms and conditions, its conduct during negotiations and the chronic underfunding of the FNIPP that allegedly resulted. The overarching concern in both may be the allegedly discriminatory implementation and application of the FNIPP, but *Dominique* did not determine that the implementation and application of the FNIPP were discriminatory in all circumstances and settings. The Tribunal in *Dominique* explicitly viewed the case as being about the Pekuakamiulnuatsh First Nation, within the Quebec setting, as reflected in the Tribunal's refusal to order broader disclosure relating to other communities: 2019 CHRT 21 at paras 28–40. For the complainant in *Dominique*, the focal issues included whether the amounts and duration of the FNIPP funding of the Pekuakamiulnuatsh First Nation in Quebec were discriminatory contrary to the CHRA. Thus, while both of the complaints challenged aspects of the FNIPP's implementation and application, they raised different issues arising from different provincial and community contexts. My conclusion in this respect is the same as that of Justice Gascon with respect to the injunction application that IPCO brought based on their complaint in this case: *Indigenous Police Chiefs of Ontario v. Canada (Public Safety)*, 2023 FC 916 at para 57 [*IPCO v. Canada*].

[123] Moreover, with respect to the issue of whether the allegations raised in the complaint fall within the protections against discrimination in the provision of services found in section 5 of the CHRA, PSC conceded in *Dominique* that it provides a service within the meaning of the CHRA through the combination of the FNIPP and the tripartite contribution agreements. Therefore, the Tribunal did not have the benefit of any arguments regarding the precise definition or parameters of the service provided by PSC. This is an additional reason why the doctrine of issue estoppel should not apply to that particular issue.

[124] Similarly, arguments about what is or is not a “contribution program” relate to the provision of services under section 5 and so it would be premature to find issue estoppel on this particular point. That said, the Tribunal and the Federal Court have made prior findings on this issue: see *Dominique* CHRT at paras 309–310 and *Dominique* FC at para 78. In light of those findings, PSC would face a significant challenge if it were to argue that it is simply

administering a discretionary contribution program when it administers and implements the FNIPP.

[125] In addition to the above, IPCO has failed to make out the third element of the issue estoppel test because the parties to the *Dominique* and *Takuhikan* litigation are not the same as the parties to this proceeding or their “privies”: see *Danyluk* at para 25. I do not agree with IPCO that it is a “privy” of the complainant in the *Dominique* case. To be a privy, there must be a sufficient degree of mutual interest between the parties to make it fair to bind the parties in the second proceeding to the decision of the first (*Danyluk* at para 60). The determination of who is or is not a privy is to be made on a case-by-case basis. The complainants here and in *Dominique* are not the same, and IPCO has not demonstrated that they share a sufficient mutuality of interest. The nine different police services represented by IPCO operate in significantly different settings than the single complainant in *Dominique*. In my view, the fact that the complainants in both cases signed tripartite agreements under the FNIPP, coupled with their overlapping interests, are not sufficient to make them privies to each other.

[126] For the above reasons, the doctrine of issue estoppel does not apply to prevent PSC from contesting the factual and legal issues set out in paragraph [117] above.

(iii) No abuse of process

[127] Rule 10 of the Rules of Procedure empowers the Tribunal to make any order that it considers necessary to prevent an abuse of process. The doctrine of abuse of process engages the inherent power of a court or tribunal to prevent the misuse of its processes. One circumstance in which the doctrine has been applied is where litigation between a court or tribunal is found in essence to be an attempt to relitigate a claim that has already been determined: see *Toronto (City) v. C.U.P.E., Local 79*, 2003 SCC 63 at para 37.

[128] I do not agree with IPCO that it is an abuse of process for PSC to contest the factual and legal issues set out in paragraph [117] of this ruling. For the reasons set out above, the issues in this case overlap with, or are similar to, the factual context and legal issues raised in the *Dominique* and *Takuhikan* litigations. However, they are also distinct and arise in a

different context. Therefore, it is not a misuse of the Tribunal's process for PSC to contest the issues set out in paragraph [117].

[129] For the above reasons, I do not agree with IPCO that PSC is precluded from contesting the findings listed in paragraph [117] above. That said, I fully agree with Justice Gascon's comments in *IPCO v. Canada* that this does not mean that I should ignore prior factual and legal findings made in the various decisions in the *Dominique* and *Takuhikan* litigations with respect to the history of the FNIPP and its implementation and application: *IPCO v. Canada* at para 60. I agree with Justice Gascon that the factual and legal findings in the *Dominique* and *Takuhikan* litigations may have an important bearing on this case.

E. Should this proceeding be bifurcated between the issues of liability and remedy?

[130] No. IPCO has not met its onus of demonstrating that it is appropriate to bifurcate the hearing by separating the remedies phase from the liability phase.

(i) Applicable legal principles

[131] The Tribunal has broad authority under sections 48.9(1) and 50(1) of the CHRA and Rule 5 of the Rules of Procedure to determine its own process, including whether to order the bifurcation of a case. The Tribunal's default practice is that it conducts one hearing which combines the issues of liability and remedy. The burden of proving that a bifurcation order should be granted lies with the party seeking the order: see, for instance, *Apotex Inc. v. Bristol-Myers Squibb Co.*, 2003 FCA 263 at para 10.

[132] I agree with the parties that relevant factors to weigh in deciding whether to bifurcate this proceeding include:

- 1) whether there is an overlap in evidence or witnesses to be called regarding the issues;
- 2) whether the second hearing would be necessary if the complainant were unsuccessful in the first hearing;

- 3) whether the bifurcation of issues would save time and resources for the Tribunal and the parties; and
- 4) whether a bifurcation order would cause prejudice to a party: *Chabot-Gaspe v. Pearson Educational Measurement Canada and others*, 2017 BCHRT 132 at para 37.

[133] An additional factor is whether all parties consent to bifurcation. Such consent does not bind the Tribunal, but it is a relevant factor for the Tribunal to consider.

[134] In my view, bifurcation does not automatically create efficiencies. I do agree with IPCO that bifurcation would likely save time and resources if it fails to establish discrimination in this case. In such a scenario, a hearing on the remedy portion would not be necessary. However, by contrast, a decision to bifurcate may significantly lengthen this proceeding if I were to ultimately find that discrimination has been established. In cases where liability is established, the parties may essentially end up litigating two cases which ends up taking more time and drawing on more resources than one efficiently run hearing. This is especially likely in cases where the liability and remedy issues are naturally intertwined, as they are in this case. In such cases, artificially severing the issues of liability and remedy often creates more complexity and delay rather than less. In this case, many of the witnesses called by the parties are likely to provide testimony that is relevant to both the issues of liability and remedy. Also, incorporating a focus on the remedies sought by IPCO may assist the parties in clarifying and focusing their positions on the liability issues in this case.

[135] IPCO seeks to rely on *Dominique* CHRT and *FNCFC* in which the Tribunal granted bifurcation. However, I do not find it appropriate to follow the approach to bifurcation in *Dominique* CHRT, and I find *FNCFC* distinguishable. Unlike in this case, in *Dominique* CHRT, both parties agreed to bifurcation; therefore, the issue was not fully argued. Also, the fact that the *Dominique* CHRT case remains ongoing to this day demonstrates that bifurcation did not yield the efficiency-related goals that the Tribunal envisaged at the time of that the request to bifurcate was granted. See *Dominique v. Sécurité publique Canada*, 2025 TCDP 63 at paras 39–42.

[136] As noted by PSC, *FNCFC* is not truly an example of the Tribunal granting bifurcation before the hearing. Instead, when rendering its decision, the Tribunal found that it had further questions about the relief sought. Therefore, it retained jurisdiction to have further hearings on remedies and to supervise the remedial process that continues to be ongoing (*FNCFC* at paras 483–484, 490, 493–494).

[137] I do not agree with IPCO that denying its request to bifurcate will result in denying it the opportunity to make fulsome submissions on remedies. One does not imply the other. Even when bifurcation is denied, the parties may still be provided a fair and appropriate (but not unlimited) opportunity to make their submissions in support of the remedies they have requested.

[138] For the above reasons, IPCO has not met its onus of demonstrating that bifurcation is appropriate in this case.

(ii) IPCO's alternative requests

[139] IPCO proposes that, if I deny its bifurcation request, I hold an accelerated merits hearing based on the application of the doctrines of issue estoppel or abuse of process to then proceed to the remedial phase in parallel to, or alongside, the *Dominique* case. As detailed above, I do not agree that the doctrines of issue estoppel or abuse of process apply in this case. Therefore, I do not find it appropriate to proceed in the manner proposed by IPCO.

[140] IPCO also asks that I permit it to amend its SOP—not to add further **kinds** of remedies, but to provide more specific proposals for **how** to implement the remedies it has sought. In my view, this is a topic best addressed in case management. It may be appropriate to provide the parties with an opportunity to amend their SOPs to address proposals for **how** to implement the remedies IPCO has sought.

[141] If IPCO's proposals for implementation were to amount to entirely new remedies, it would have to request permission to amend its SOP to add such new kinds of remedies. However, I should note that I would not be inclined to find it appropriate to permit IPCO to add new remedies to its already wide-ranging list of remedies at this stage. IPCO had the

opportunity to list the full range of remedies that it would be seeking in this case in its original SOP. It then had a further opportunity to amend its list of remedies in the amended SOP. If it wished to add further types of remedies it will be seeking, it should have done so at that time. That said, it may be appropriate to allow IPCO to further particularize its proposals for how to implement the remedies it has sought in its amended SOP. I will discuss this issue further with the parties in a case management conference call after this ruling is issued.

[142] For the reasons set out above, I deny IPCO's request to bifurcate the hearing between the liability and remedy issues.

VII. Orders and directions

[143] For the reasons set out above, PSC's motions to limit the scope of the complaint and its motion for particulars and documents are granted in part. IPCO's motions for leave to call more than five expert witnesses, its motion for the application of the doctrines of issue estoppel or abuse of process and its motion for bifurcation are denied.

[144] The Tribunal's Registry will canvass the parties' availability for a case management conference call once this ruling is issued to set deadlines for the next steps in this proceeding.

[145] IPCO must begin the process of gathering the required particulars and documents I have ordered disclosed as soon as possible. As well, in advance of the call, IPCO and PSC must confer with each other, and the Commission if necessary, to prepare a proposed timetable for next steps including:

- 1) Deadline for IPCO's compliance with the disclosure orders in this ruling;
- 2) Deadline for IPCO to clarify the amendments it seeks to make to its amended SOP to particularize its proposals for **how** to implement the remedies it has sought in that SOP.

- 3) Deadline for IPCO to further amend its SOP to comply with my order to remove vague language such as “including”, “includes, but is not limited to”, “among other things”, “among others” and any other equivalents; and
- 4) Deadline for PSC’s filing of its amended SOP and disclosure.

Signed by

Jo-Anne Pickel
Tribunal Member

Ottawa, Ontario
September 10, 2025

Appendix

Request for particulars

#s in PSC request and IPCO response	Summary of particulars requested by PSC	Summary of IPCO's response to PSC's request and motion	Ruling on PSC's request
1/11	Particulars relating to the geographic area(s) served by each of the nine IPCO member police services.	PSC already has this information in its power and control as a signatory to the tripartite funding agreements between it and the nine police services. The information is on their websites and in annual reports produced by IPCO.	Denied – PSC is entitled to the information, but it is already within its possession, power or control. See paragraphs [101]–[102] of the ruling.
2/12	Particulars relating to the number of calls for police service received from the public, and the nature of those calls, for each of the nine police services for all years in issue.	Many of IPCO member services do not collect this data due to underfunding. Where data is available, it is contained in the annual reports of member services and in reports made pursuant to the requirement of the funding agreements which are within PSC's power and control.	Denied – the information either is not within the possession of IPCO or, if it is, it is also within the possession, power or control of PSC. See paragraphs [101]–[102] and [104] of the ruling.
3a/13	Particulars as to how each of the nine police service has been “plagued by a lack of resources”.	This information is contained in the original SOP as well as the amended SOP, in particular at paras 9(a)–(i), 219 and 259. IPCO argues that it is impossible to list every instance of a lack of resources, but it provides some examples for some of its member services in its response to the motion.	<p>Granted – IPCO must provide a complete list of the material facts it intends to rely upon to show that its nine member services have been plagued by a lack of resources.</p> <p>If the particulars that IPCO provided in its amended SOP and responses to PSC's request and motion are complete, it must confirm that this is the case. See paragraph [108] of the ruling.</p>
3b/14	Particulars as to how each of the nine police service has suffered from the stated inadequate funding.	The information is contained in the original SOP at paragraphs 17–21, 36–44, and 127, as well as IPCO's amended SOP, specifically in paragraphs 9(a) to (i), 37, 43–48 and 227. IPCO provides examples of	Granted – IPCO must provide a complete list of the material facts it will rely upon to show the ways in which its nine member services

		impacts and says it will further demonstrate the impacts through evidence at the hearing.	<p>have suffered from the alleged inadequate funding.</p> <p>If the particulars that IPCO provided in its amended SOP and responses to PSC's request and motion are complete, it must confirm that this is the case. See paragraphs [107]– [108] of the ruling.</p>
3c/15	Particulars relating to the “basic safety standards” as described in paragraphs 9(a)–(i), including what these standards are and the particulars of how they have not been met.	<p>The information is contained in the original SOP and amended SOP. The “basic safety standards” that IPCO describes in paragraphs 9 (a)–(i) of the amended SOP are those that are afforded to all other police services across Canada, other than self-administered First Nations services. The standards are set out in the <i>Police Services Act</i>, R.S.O. 1990, c. P.15 (PSA) and now the <i>Community Safety and Policing Act, 2019</i>, SO 2019, c 1, Sch 1 (CSPA). IPCO provides examples of the ways these “basic safety standards” have not been met.</p>	<p>Granted in part.</p> <p>IPCO has specified what it meant by the term “basic safety standards”. However, it must provide a complete list of the ways in which it alleges its nine member services have not been able to meet those basic safety standards.</p> <p>If the particulars that IPCO provided in its amended SOP and responses to PSC's request and motion are complete, it must confirm that this is the case. See paragraph [108] of the ruling.</p>
4/16	With respect to paragraph 9(c) of the amended SOP as it relates to Lac Seul Police Service (LSPS), what are the “basic policing functions” that LSPS has not been able to provide?	<p>The basic policing functions that LSPS and other IPCO member services are unable to provide are included in the response provided to paragraphs 3(a)–(c) of Canada's request for particulars and are included in IPCO's original SOP and amended SOP. Policing standards and the lack thereof for First Nations police services will also be the subject of the testimony provided by expert Chris Lewis and are further detailed in Mr. Lewis' expert report.</p>	<p>Granted – IPCO must provide a complete list of the ways in which it alleges LSPS has not been able to provide basic policing functions now, not at the hearing.</p> <p>If the particulars provided in its amended SOP and response to responses to PSC's request and motion are complete, it must confirm that this is the case. See paragraphs [107]–[108]</p>

			of the ruling.
5/17	With respect to paragraph 9(d) of the amended SOP as it relates to Nishnawbe-Aski Police Service (NAPS), particulars relating to the “legally backed standards” and whether these are the same as “basic safety standards” referred to in paragraph 9(d).	The legally backed standards and basic safety standards are the same, and they represent the standards to which all other police services in Canada are subject.	Denied – IPCO has provided a sufficiently detailed response to the request for clarification.
6/18	With respect to paragraph 44 of the amended SOP, for each of the nine police services, particulars, for each year in issue, regarding the funding amounts that were requested from the Government of Ontario and/or the Government of Canada	Information regarding any funding requests that the Complainant’s member services may have made is already within Canada’s power and control. IPCO has also provided copies of presentations made by a coalition of its police services to PSC.	Denied – the information is within possession, power or control of PSC. See paragraphs [101]–[102] of the ruling.
7/19	With respect to paragraph 44 of the amended SOP, particulars regarding the funding amounts that each of the nine police services say ought to have been provided for each year in issue.	<p>IPCO stated in its amended SOP that it is not in a position to argue definitively what funding levels should have been or should be in the immediate future in part due to the approach to funding taken by PSC in the past. In particular, the lack of any needs assessments by PSC is an issue in contention in this case.</p> <p>In its response to PSC’s request for particulars and documents, IPCO states that adequate and effective policing requires being able to meet the standards as set out in the PSA and now the CSPA. Specifically, it argues that the funding should cover the core foundations of policing— crime prevention, law enforcement, assistance to victims of crime, public order maintenance, and emergency response.</p> <p>IPCO submits that each of its member services should have been provided sufficient funding to ensure that they were able to meet that standard as set out in legislation, as well as the commitments set out in the FNIPP.</p>	Denied – IPCO has provided the particulars sought by PSC that it is capable of providing. According to IPCO, it will be taking the position that the funding amounts that ought to have been provided were the amounts necessary to meet the standards set out in the PSA and now CSPA in respect of the core foundations of policing, as well as commitments set out in the First Nations Policing Policy. See paragraphs [101]–[102] of the ruling.
8/20	With respect to paragraph 45 of the amended SOP, please provide particulars of the	Such standards of service are outlined in applicable legislation. The service standards of non-Indigenous	Granted – IPCO must provide particulars of the standards of

	standards of service that are provided to communities in remote and rural areas served by the OPP and other non-Indigenous police services, which are not provided to communities served by police services funded under the FNIPP.	police services in Ontario are among the subjects of OPP Commissioner (Ret'd) Christopher Lewis's expert report and anticipated testimony. IPCO's position is that First Nation police services should benefit from the same standards that guarantee the safety of other members of Canada and should not be excluded from these to the detriment of First Nations community safety.	service it is alleging are not met by its member services that are met in remote or rural communities serviced by the OPP. This information must be provided now, not at the hearing. It is not sufficient for IPCO to simply refer to the expected testimony of one of its witnesses. See paragraph [107] of the ruling.
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Request for documents

	Summary of documents requested by PSC	Summary of IPCO's response	Ruling on PSC's request
9/21	Annual reports for all nine police services for all years in issue.	IPCO provided some annual reports and noted that there were many years in which their member services did not publish annual reports.	Granted – IPCO must provide a copy of all annual reports that are within its possession or the possession of its member services. If it has already done so, it must confirm that this is the case.
10/22	Any and all documents relating to the number of officers working with each of the nine police services for all years in issue.	<p>This information is already within PSC's power and control. Specifically, the tripartite funding agreements signed by each of the services pursuant to the FNIPP sets out the funding that is provided for the number of officers.</p> <p>NAPS has provided various spreadsheets indicating new hires or additional officers across various periods of its operation.</p>	Denied – the information is within the possession, power or control of PSC. See paragraphs [101]–[102] of the ruling.
11/23	Any and all documents relating to the inventory of equipment, vehicles and other assets for each of the nine police services for all years in issue.	IPCO submits that this is information which PSC already has in its possession.	Denied – the information is within the possession, power or control of PSC. See paragraphs [101]–[102] of the ruling.
12/24	Any and all documents relating to joint, collaborative or co-operative police operations between the Ontario Provincial Police (OPP)	IPCO provided information in response to the request. Among other things, it stated that none of its member services have entered into agreements	Granted – IPCO must confirm that it has produced all documents that are responsive to

	and each of the nine police services for all years in issue. This includes documents relating to requests for OPP assistance from each of the nine police services for all years in issue.	with the OPP regarding the provision of OPP services within a First Nation reserve within the meaning of the relevant section of the CSPA.	PSC's request.
13/18	Any and all documents, for each year in issue, for each of the nine police services regarding the funding amounts that were requested from the Government of Ontario and/or the Government of Canada. This includes any PowerPoint presentations, emails or presentation materials prepared for negotiations of funding amounts.	Information regarding any funding requests that the Complainant's member services may have made is already within Canada's power and control.	Denied – the information is within PSC's possession, power or control. See paragraphs [101]–[102] of the ruling.
14/25	Any and all documents relating to any needs assessments or studies relating to the police operations of the nine police services for all years in issue.	IPCO submits that its member services do not have the funding or resources to conduct their own comprehensive needs assessments. The lack of such assessments by PSC is an issue in contention in this case.	<p>Granted in part. In my view, this request is overly broad. As written, it would cover any and all emails or internal documents mentioning the issue of needs assessments for IPCO members services.</p> <p>IPCO has confirmed that it has no "comprehensive" needs assessments or studies. However, it must disclose any less than comprehensive (i.e., partial or single issue) needs assessments or studies, if they exist. If IPCO has no less than comprehensive needs assessments in its possession, power or control, then it must confirm that this is the case.</p> <p>In my view, any documents such as emails and other internal documents somehow related to needs assessments or studies that were never completed are too remote to be arguably</p>

			relevant. See paragraphs [101]–[102] of the ruling.
15/26	Any and all documents relating to overtime paid to officers working with the nine police services for all years in issue.	IPCO submits that overtime paid to officers for each fiscal year is information that was previously disclosed to PSC on November 7, 2024. Specifically, it is found in the audited financial statements provided by IPCO member services.	Granted – according to PSC, the financial statements provided IPCO are deficient and missing crucial details on overtime paid to officers.
16/27	Any and all documents, including emails, between the nine police services and the Ontario Provincial Police (OPP) regarding resources, needs or the adequacy of policing operations in the communities served by the nine police services.	IPCO submits that any communications between its member services and the OPP regarding “resources, needs or the adequacy of policing operations” are not relevant to or probative of the issues in this complaint. IPCO states that it will be arguing that the OPP is not an adequate or acceptable replacement for the culturally responsive policing of its member services.	Granted – I understand the argument that IPCO has made and will make at the hearing. However, the information sought is arguably relevant to the issues in this case and must be produced. The issue at this point is whether the documents being sought are arguably relevant (a low standard) not any weight that should be granted to such documents if any are admitted at the hearing. See paragraphs [101]–[102] of the ruling.
17/28	Any and all documents relating to the population size of the communities served by the nine police services for all years in issue.	According to IPCO, this information is within PSC’s “reasonable possession” either through dealings with First Nations police services in the signing of funding agreement, through financial information it has provided or it is publicly available.	Granted in part. Based on IPCO’s response, it is not clear that this information is within PSC’s actual possession. This request resembles a request for particulars as well as a documentary request. However, it is overly broad. As written, it would cover any and all documents mentioning the population size of the communities served by IPCO member services. IPCO must specify the population size of the

			communities served by its nine member services for all years in issue. It must also disclose documents that demonstrate those population sizes. Any other internal documents such as emails, etc. that are somehow related to population sizes of communities served by IPCO member services are too remote to be arguably relevant. See paragraphs [101]–[102] of the ruling.
18/30	Any and all financial documents pertaining to this claim held by the Akwesasne Mohawk Police Service including, but not limited to, tripartite agreements, bilateral agreements, financial audits, annual reports, etc.	IPCO stated that the Mohawk Council of Akwesasne was discussing the request. IPCO provided two annual reports and a strategic plan.	Granted – it appears that IPCO has provided some of the documents covered by this request but not all. It must complete its disclosure and provide confirmation to PSC that it is complete.
19/31-33	Any and all financial documents pertaining to this claim held by the Rama Police Service including, but not limited to, tripartite agreements, bilateral agreements, financial audits, annual reports, etc.	IPCO submits that some of these documents have already been provided to Canada, and others are already in Canada's power and control. It has provided various other documents that are covered by the request.	Granted – it appears that IPCO has provided some of the documents covered by this request but not all. It must complete its disclosure and provide confirmation to PSC that it is complete.
20/29	Any and all documents relating to programs or funding for the communities served by the nine police services relating to addiction, mental health, gang violence, domestic violence or other related initiatives.	IPCO refused to provide specifics or documents related to programs funded to the communities it serves. It argues that such information is irrelevant because police are required to be independent from political influence, and such independence is not possible if a police service is relying on the programs for which the communities they serve are funded.	Granted – I understand the argument that IPCO has made and will make at the hearing. However, the information sought is arguably relevant to the issues in this case and must be produced. The issue at this point is the arguable relevance of the documents being sought (a low standard) not any weight that should be granted to such documents if any are admitted at the

			hearing. See paragraphs [101]–[102] of the ruling.
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Canadian Human Rights Tribunal

Parties of Record

File No.: HR-DP-2983-23

Style of Cause: Kai Liu (on behalf of IPCO) v. Public Safety Canada

Ruling of the Tribunal Dated: September 10, 2025

Motion dealt with in writing without appearance of parties

Written representations by:

Julian N. Falconer, Jeremy Greenberg, Asha James, Shelby Percival, for the Complainant

Sean Stynes, Christopher Los, Sheldon Leung, for the Respondent