

**Canadian Human
Rights Tribunal**



**Tribunal canadien
des droits de la personne**

Citation: 2026 CHRT 16
Date: February 27, 2026
File No(s): HR-DP-3053-24

Between:

Jason Cain

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

Correctional Service of Canada

Respondent

Ruling

Member: Athanasios Hadjis

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I. OVERVIEW

[1] The Respondent, the Correctional Service of Canada (the “CSC”), has made a motion to strike certain paragraphs (the “Impugned Paragraphs”) in the Statement of Particulars (the “SOP”) of the Complainant, Jason Cain, and the SOP of the Canadian Human Rights Commission (the “Commission”). The CSC also seeks further particulars from Mr. Cain and the Commission regarding some of the allegations in their SOPs.

II. DECISION

[2] For the following reasons, I grant the motion in part. I order that some of the Impugned Paragraphs be struck and that Mr. Cain provide certain additional particulars.

III. ISSUES

- Is there a sufficient connection or nexus between the allegations in the complaint and the paragraphs that the CSC seeks to have struck?
- Do the allegations in Mr. Cain’s and the Commission’s SOPs sufficiently detail the material facts and pleadings to enable the CSC to know the case it has to meet?

IV. BACKGROUND

[3] To address the question of whether the Impugned Paragraphs in the SOPs relate sufficiently to the complaint or if more particulars must be provided, it is important to understand what Mr. Cain alleged in the complaint, which he filed with the Commission on August 2, 2022.

[4] Mr. Cain states that he is a “Black, English Canadian.” He alleges that he was discriminated against by CSC staff during his incarceration at Drummond Institution (“Drummond”), in Drummondville, Quebec, claiming that he and “the rest of the black/ethnic population have faced a brutal racial prejudice.” He wrote on the complaint form that the discrimination took place between March 25, 2021, and January 13, 2022. He alleged that

the discriminatory practices were based on the grounds of race, national or ethnic origin, colour, and sex.

[5] In the introductory paragraph to his complaint, Mr. Cain states that the CSC incident reports regarding himself and other Black inmates reflect bias resulting from insufficient investigations. These reports then serve to build on a narrative that inmates of colour are aggressive and do not follow rules.

[6] Mr. Cain then details in his complaint the following incidents and allegations in support of his claim:

- i. March 25, 2021: Mr. Cain was wrongfully accused of “barking” at a female CSC employee. He takes issue with the related incident report.
- ii. December 30, 2021: Mr. Cain was transferred into a maximum-security unit after a heated discussion with CSC staff, the incident report of which was flawed.
- iii. January 4, 2022: Mr. Cain’s parole officer, Mathieu Nadeau, wrote an assessment for decision report (known as an “A4D”) where important information was misused, fabricated, and omitted. Mr. Cain refers specifically to alleged misinformation about items seized in his cell in November 2021, which he claims were mischaracterized as being associated with substance abuse.
- iv. Mr. Nadeau’s A4D also misstates information about Mr. Cain’s interactions with his wife and some alleged threats, which negatively impacted on his family violence risk assessment.
- v. The A4D also wrongfully refers to another charge against Mr. Cain that was eventually withdrawn.
- vi. The effect of inaccurate A4Ds leads to an increase in an inmate’s risk factor assessment or delays any decrease.
- vii. Collectively, case management teams engage in discriminatory practices by misusing information and seeing Black inmates through a “gang lens.”

- Wrongdoing by CSC staff is ignored, especially in encounters with white female employees. In the A4D, Mr. Nadeau referred to a 2017 incident involving a female correctional officer without properly documenting the findings about the incident.
- viii. Regarding inmate employment, “jobs of trust” that require security clearance are often denied to persons of colour. Mr. Cain cites the example of a job of trust that he and other Black inmates held at the “Corcan shops,” from which they were removed during the COVID-19 pandemic, but not the white inmates who were similarly employed.
 - ix. Social and cultural programs for Black and ethnic inmates are “non-existent.” Every inmate contributes to the inmate welfare fund for such programs, but the funds are misused and redistributed only to social strategies chosen by and beneficial to white inmates.
 - x. Black inmates have a harder time getting private family visits. They are excessively monitored and often receive harsher punishments for visit violations. Mr. Cain’s parents were not given instructions for video calls with him in their preferred language, English.
 - xi. There is also bias against Black and ethnic inmates in the hiring of staff at the inmate canteens, and in the items that are sold there.
 - xii. The Inmate Committee lacks diversity and never reflects the inmate population’s composition. Drummond’s institutional head provides no strategy and shows no interest in making sure messages supporting inclusivity are throughout the establishment. The institutional head also fails to address staff members who act racially inappropriately and ignores the concerns of Black and ethnic inmates.

[7] In accordance with Rules 18–20 of the *Canadian Human Rights Tribunal Rules of Procedure, 2021*, SOR/2021-137 (the “Rules of Procedure”), Mr. Cain and the Commission filed their SOP setting out their positions on the facts on which the complaint is based and

the issues raised. The CSC presented this motion before filing its SOP. I suspended the timelines for the CSC to file its SOP and for the other parties to file their replies until the motion had been addressed.

[8] The CSC claims in its motion that the Impugned Paragraphs should be stricken because they have insufficient connection or nexus to the complaint and therefore fall outside of its scope. Additionally, the CSC submits that several other paragraphs in the SOPs are insufficiently detailed and lack material facts, such that it is unable to know the case that it must meet.

V. ANALYSIS

A. Applicable legal principles regarding scope

[9] In a recent ruling involving a similar request to strike SOP allegations and obtain further particulars (*Sargeant v. Correctional Service Canada*, 2025 CHRT 77 [*“Sargeant”*]), the Tribunal concisely outlined, at paras 15–19, the applicable legal principles, as summarized below.

[10] The Tribunal’s role is to inquire into complaints referred to it by the Commission (see sections 40, 44, and 49 of the *Canadian Human Rights Act*, R.S.C., 1985, c. H-6 (the “Act”). In determining the scope of a complaint, the Tribunal may consult, among other things, the Commission’s investigation report, the letters sent by the Commission to the Chairperson and the parties, the original complaint, and any administrative forms. The same principles apply whether the Tribunal is ruling on the scope of a complaint or addressing a motion to strike allegations from an SOP (see *Sargeant* at para 15).

[11] The Tribunal is not intended to be a Royal Commission into general allegations of discrimination in a certain institution, sector of society, or government service. It must respect its legislative mandate as an adjudicative body, not an investigative one, and stay focused on the allegations set out in the specific complaint before it (see *Sargeant* at para 16; *Richards v. Correctional Service Canada*, 2025 CHRT 57 [*“Richards”*] at para 49; and *Moore v. British Columbia (Education)*, 2012 SCC 61 at para 64).

[12] The Tribunal must conduct its proceedings as informally and expeditiously as the requirements of natural justice and the Rules of Procedure allow (see section 48.9(1) of the Act and Rule 5 of the Rules of Procedure). In doing so, the Tribunal must be guided by the principle of proportionality to ensure the efficient use of its publicly funded resources (see *Sargeant* at para 16; and *Richards* at para 25).

[13] The Commission may refer all or part of a complaint to the Tribunal for inquiry, but the Act does not authorize it to unilaterally add new allegations to an individual's complaint. The Commission's role is to act as a screening body for complaints filed under the Act, determining whether further inquiry into a complaint is warranted (see *Sargeant* at para 17).

[14] The Commission does not have carriage of complaints that are filed by individuals. The Commission may initiate its own complaint if it has reasonable grounds for believing that a person is engaging, or has engaged, in a discriminatory practice (see section 40(3) of the Act). However, complaints filed with the Commission by individuals are not Commission complaints. They belong to the complainants who filed them. The Tribunal's jurisdiction is set out by the complaints themselves and the Commission's referral of the complaints (see *Sargeant* at para 18).

[15] If the Commission participates in the Tribunal's inquiry, its role is to advance positions on the complaint that it considers to be in the public interest (see section 51 of the Act). Once the Tribunal inquiry begins, the parties are required to file SOPs. In its SOP, the Commission must outline its position on the facts underlying the complaint, the issues raised in the complaint, and any order the complainant seeks under sections 53(2)–(4) of the Act (see Rule 19 of the Rules of Procedure). However, nothing in the Rules of Procedure permits the Commission to introduce additional facts or issues beyond those contained in the complaint (see *Sargeant* at para 19).

[16] I have decided to break down the Impugned Paragraphs into five categories for the purposes of my analysis:

- Allegations in Mr. Cain's SOP that the CSC says are outside the complaint period;
- Allegations in Mr. Cain's SOP that the CSC says raise facts not mentioned in the SOP;
- Harassment allegations;

- The Commission's references in its SOP to reports from third parties; and
- The Commission's remedial requests.

(i) Allegations in Mr. Cain's SOP that the CSC claims are outside the complaint period (March 21, 2021, to January 13, 2022).

(a) Paragraphs 2 to 13

[17] In these paragraphs, Mr. Cain recounts events that took place from the first week of his arrival at Drummond in August 2020 until mid-October 2020. They clearly precede the complaint period.

[18] Mr. Cain argues that these paragraphs serve only as background to the initial allegations and therefore need not be struck (see *Jorge v. Canada Post Corporation*, 2021 CHRT 25 at para 242). Some contextual evidence may be relevant to providing a frame of reference or background context for deciding the factual issues of a case (see *Sargeant* at para 25). In particular, Mr. Cain contends that these paragraphs give context to Drummond's atmosphere when he entered it and how he became involved with the ethnocultural group and sought its services. The paragraphs, and particularly paragraph 10, describe the Institutional Head's response to propositions for change that he and others had made in 2020. Mr. Cain pointed to the fact that in his complaint, in the section regarding the Inmate Committee, he also referenced the Institutional Head's failures.

[19] The mere reference to the Institutional Head's conduct in these Impugned Paragraphs does not mean that they provide context for the allegations in the complaint, as Mr. Cain claims. These Impugned Paragraphs go into detail about exchanges and events that occurred in 2020. They are effectively specific new allegations, none of which were mentioned in the complaint that the Commission referred to the Tribunal for inquiry. The reference to the Institutional Head does not, in itself, establish that they provide context for the allegations in the complaint.

[20] These paragraphs must be struck.

(b) Paragraphs 14 to 18

[21] These paragraphs refer to events that occurred between October 15, 2020, and February 2, 2021, though there is also mention of events in March, April, and July 2020. The paragraphs refer specifically to family visits with Mr. Cain's wife that were denied to him. In contrast to the previous set of Impugned Paragraphs, these passages do provide context for a specific allegation in the complaint. There is a clear link between these events and the claim that Mr. Cain and other Black inmates are subject to differential treatment regarding family visits.

[22] Therefore, the paragraphs should not be struck.

(c) Paragraphs 20 to 33, and 94

[23] These Impugned Paragraphs refer to an event that occurred in October 2020. These paragraphs were not explicitly listed for striking in the draft Order that the CSC included with its motion. However, elsewhere in their motion materials, specifically in the section addressing its request for further particulars, the CSC states that if the October 2020 dates in these paragraphs are accurate, the paragraphs should be struck. The CSC argues that they fall outside the complaint period. The CSC also points specifically to paragraph 32, in which Mr. Cain states that he was brought into a restricted movement area. The CSC says this was not referred to in the complaint.

[24] I accept that these paragraphs provide context to allegations in the complaint, in that Mr. Cain's parole officer, Mr. Nadeau, misused, fabricated, and omitted information from the A4D that he prepared. Mr. Cain says that Mr. Nadeau referred to the event discussed in these paragraphs in the A4D. As for Mr. Cain's statement that he was placed in a restricted movement area, he says in the SOP that the CSC's action was in response to the same event.

[25] Therefore, I agree that they should not be struck. However, the matters referred to in these paragraphs can only serve as background to the allegations in the complaint. They

are not to form part of any analysis about whether they themselves constitute or form part of a discriminatory practice.

(d) Paragraphs 34 to 38

[26] Paragraph 34 merely states that in October 2020, management measures were put in place relating to the COVID-19 pandemic. While this statement does predate the complaint period, I accept Mr. Cain's explanation that the sentence serves as an introduction to the ensuing paragraphs 35 to 38. These paragraphs discuss his Corcan shops employment and how he was dismissed during the pandemic period. The Impugned Paragraph serves as context. It does not need to be struck.

[27] The CSC contends that in Mr. Cain's response to its motion, he appeared to suggest that the termination of his employment occurred in October 2020. Therefore, the CSC states that all of these paragraphs (35 to 38) and several others elsewhere that refer to the Corcan employment should be struck as being outside of the complaint period.

[28] I am not persuaded by the CSC's argument. Mr. Cain's response is not as absolute as the CSC suggests. He stated that he did not know when he was told of his termination but offered up October 2020 as an approximation. More importantly, the complaint clearly references the Corcan employment issue and specifies that it occurred during the COVID-19 pandemic, which began in 2020. Irrespective of the actual specific dates, the CSC was clearly put on notice of this incident in the original complaint and it falls squarely within the complaint.

[29] The paragraphs should not be struck.

(e) Paragraph 39

[30] This paragraph merely refers to the January 2021 election of the inmates' ethnocultural representative. I accept Mr. Cain's explanation that this reference is only intended to provide context and background to the ensuing paragraphs in the SOP (40 to

42). Those following paragraphs refer to allegations in the complaint about the funding for social and cultural programs. The paragraph does not need to be struck.

(f) Paragraphs 43 and 44

[31] These paragraphs refer to actions that Mr. Cain's wife took in February and March 2021, prior to the complaint period. However, Mr. Cain points out that they provide context. It concerns the clarification that his wife sought regarding group funding and the response she received, which relate to the funding issue for programs mentioned in Mr. Cain's complaint. I accept this explanation.

[32] The paragraphs should not be struck.

(g) Paragraphs 72 and 73

[33] In these paragraphs, Mr. Cain states his objection to Mr. Nadeau having referred in the A4D to an incident that occurred when he was previously incarcerated at Millhaven Institution. This had led to a negative character assessment about him. Mr. Cain takes issue with the fact that in the A4D, Mr. Nadeau did not mention other incidents from 2011 and 2016 that may have contributed to this assessment.

[34] The CSC asks that these paragraphs be struck as being outside the complaint period. Mr. Cain points out that these paragraphs are only meant to be illustrative of the selectiveness of the information mentioned in Mr. Nadeau's A4D, the deficiencies of which were explicitly alleged in the complaint. They are only being referred to as context.

[35] I accept Mr. Cain's explanation. However, as in the case of paragraphs 21 to 33 and 94, the pre-complaint period incidents mentioned in these paragraphs can only serve as background to the allegations in the complaint. They are not to form part of any analysis about whether they themselves constitute or form part of a discriminatory practice.

[36] These paragraphs should not be struck.

(ii) Other allegations in Mr. Cain's SOP that the CSC says raise facts outside the scope of the complaint

(a) Paragraph 95

[37] This paragraph is in the "Remedies" portion of Mr. Cain's SOP. The CSC asks that the last nine lines of the paragraph, beginning with the words "specifically surrounding reintegration," be struck. The paragraph begins with a request from Mr. Cain that the CSC be ordered to carry out a special plan or arrangement to prevent or eliminate the disadvantages he alleges in his complaint. The CSC takes issue with the specification in the request that the plan or arrangement should relate specifically to Mr. Cain's "reintegration," presumably into the community. The CSC points out that the complaint makes no mention of reintegration.

[38] Mr. Cain contends that the complaint's introductory paragraph states that institutional charges against inmates like him "can lead to additional time added to a sentence and/or denial of parole." He claims this statement creates a sufficient nexus to the contested portion of this Impugned Paragraph. I am not convinced. The complaint is centred on events that took place during his incarceration. There is no mention of discriminatory practices relating specifically to reintegration.

[39] The last nine lines of paragraph 95 must be struck.

(b) Paragraph 99

[40] As a remedy, Mr. Cain also asks that the CSC be ordered to mention in an inmate's documentation the fact that they have spent significant time in segregation and the effect of that experience.

[41] The CSC correctly points out that there is no mention of segregation in the complaint. Mr. Cain was permitted earlier in this ruling to retain the passing reference in the SOP to being in a "restricted movement area" for four days only because it serves as context to the A4D allegations regarding Mr. Nadeau. There is no reference to any notion of segregation anywhere else in the SOP other than in paragraph 99, let alone in the complaint. The CSC

also points out that administrative segregation was declared unconstitutional and has been replaced by structured intervention units since November 2019.

[42] Paragraph 99 must be struck.

(iii) Harassment allegations at paragraph 91

[43] At paragraph 91 of his SOP, Mr. Cain states the following:

As per section 14 of the *Canadian Human Rights Act*, it is my belief that the facts to be substantiated throughout this complaint will show that I faced a level of harassment on prohibited grounds of discrimination such as race, national or ethnic origin, and colour.

[44] The CSC contends that this paragraph should be struck because section 14 of the Act was not referred to in the complaint. The only mention of the word “harassment” in the complaint is about Mr. Nadeau having stated in the A4D that Mr. Cain had harassed an ex-girlfriend. There is no allegation in the complaint that CSC employees harassed Mr. Cain.

[45] In the form called “Amended Summary of the Complaint,” which the Commission prepared and attached to the front of the complaint, there is a box in which the sections of the Act at issue in the complaint are set out. The only section listed is “5 – Denial of Good/Service/Facility or Accommodation.” There is no reference to section 14 of the Act.

[46] The CSC points out that the term “harassment” does not even appear in the Commission’s Report for Decision (the “Report”), which was prepared by a Commission HR officer on January 29, 2024. The Report only states that Mr. Cain alleges the CSC discriminated against him “contrary to section 5” of the Act. The Report’s analysis deals with whether the CSC provided a service customarily available to the general public within the meaning of section 5 of the Act. The Report’s conclusion is that there is a reasonable basis in the information to support Mr. Cain’s allegations of adverse differential treatment, “contrary to section 5.”

[47] The Commission’s April 23, 2024, Decision to deal with the complaint and to refer it to the Tribunal if it is not settled in conciliation, states that the decision was taken “for the reasons discussed in the Report.”

[48] It is clear that until Mr. Cain filed his SOP, there had not been any mention or allegation of harassment in the relevant material.

[49] Given this fact, Mr. Cain states in his motion submissions that he seeks leave to amend his complaint to add the section 14 allegation in paragraph 91. He points out that he is not alleging or relying on any new facts or evidence. He merely intends to argue that the CSC's conduct, as already alleged in the complaint and the SOP, also constitutes harassment within the meaning of section 14 of the Act.

[50] The Tribunal has the authority to amend complaints (see *Canada (Attorney General) v. Parent*, 2006 FC 1313 at paras 30 and 40). Amendments are allowed at any stage for the purpose of determining the real questions in controversy between the parties, provided it would not result in prejudice to the other party. An amendment cannot introduce a substantially new complaint, as this would bypass the referral process mandated by the Act (see *Canadian Association of Elizabeth Fry Societies v. Correctional Services of Canada*, 2022 CHRT 12 at para 14).

[51] This authority to amend complaints has often been exercised to add allegations of retaliation under section 14.1 of the Act (for example, see *Bressette v. Kettle and Stony Point First Nation Band Council*, 2004 CHRT 2; and *Saviye v. Afroglobal Network Inc.*, 2016 CHRT 18).

[52] However, there is also precedent for such amendments regarding other provisions of the Act. In *Woiden v. Lynn (No. 1)*, 2002 CanLII 78207 (CHRT), the complainants had alleged in their complaints that their manager engaged in a discriminatory practice under section 14 of the Act by harassing them on prohibited grounds of discrimination. I granted a preliminary motion to amend their complaints to add an allegation of discrimination in the course of employment, pursuant to section 7 of the Act. I observed that none of the facts alleged in the complaints were being altered. The only real change would occur once all the evidence was in, when the parties would be making their final submissions. At that point, the additional issue of whether the facts supported a finding of discrimination under one or the other provisions of the Act would be addressed. I concluded that the amendment did not

put the respondent at any disadvantage since he would still be meeting the same case (that is, the same factual allegations).

[53] The CSC replies to Mr. Cain's amendment request by stating that neither he nor the Commission has provided any concrete example of harassment in the materials to date. The CSC adds that the facts also do not support a finding of harassment. However, these submissions are essentially an argument about the merits or sufficiency of the proposed evidence to support the harassment allegation. That is not the question before me now. I must decide whether to allow the allegation under section 14 of the Act to proceed, irrespective of whether it will ultimately be substantiated.

[54] I note that in a recent ruling, in *Richards v. Correctional Service Canada*, 2025 CHRT 93, the Tribunal denied a request to amend a complaint filed under section 14.1 of the Act to add an allegation under section 5 of the Act. The Tribunal said that the complainant was seeking to add new issues that would transform the complaint and fundamentally change its legal foundation.

[55] In contrast, Mr. Cain states that he will not be relying on any new facts or evidence to argue the harassment allegation. As such, there is no fundamental change in the foundation of his complaint. Consequently, I do not find that the CSC would be prejudiced by the amendment. The CSC knows the case that it has to meet, with one important exception. Mr. Cain has yet to specify which of the alleged facts would constitute harassment. Therefore, his request to amend his complaint to include the allegation under section 14 of the Act as set out in paragraph 91 is granted on the condition that he indicates in his amended SOPs which of the already alleged facts, in his view, constitute the discriminatory practice of harassment.

[56] Paragraph 91 should not be struck.

(iv) The Commission's references in its SOP to reports from third parties do not expand the scope of the complaint

[57] In its SOP, the Commission refers to numerous reports from various authorities and organizations regarding anti-Black racism, including the John Howard Society, the Office of

the Correctional Investigator, the Ontario Human Rights Commission, and others (collectively, the “Third-Party Reports”). The Commission relies on these reports for two purposes. The first is to support the statement that “systemic discrimination is an indisputable social fact” and that Black racism exists in Canada, including in the carceral system. Its second purpose is to support its request for public interest remedies should the complaint be substantiated. The CSC asks that paragraph 42(a), in which the Third-Party Reports are relied upon by the Commission for its remedial request, be struck.

[58] The CSC contends that in referring to the Third-Party Reports, the Commission is attempting to extend the Tribunal’s inquiry outside the four corners of the complaint, which the CSC maintains is limited to incidents that occurred at Drummond during the ten-month complaint period. The CSC submits that permitting the Commission’s reference to the Third-Party Reports in its SOP effectively adds new allegations to Mr. Cain’s complaint. This would impermissibly expand the scope of the Tribunal’s inquiry into an “unfocussed, sprawling commission of inquiry,” contrary to the Rules of Procedure, the principles of procedural fairness, and proportionality.

[59] The Commission counters that Mr. Cain’s complaint did refer to systemic issues. Mr. Cain often introduced his accounts of the events at Drummond that he alleges are discriminatory by stating that other Black or ethnic inmates experience the same treatment as him or are viewed by CSC staff in the same manner and with the same biases as he experienced.

[60] The Commission acknowledges that the Tribunal’s inquiry is not a Royal Commission. Rather, the Commission submits that its references to the Third-Party Reports are only intended to provide context to the particular facts of Mr. Cain’s complaint. They are relevant in assessing his factual allegations, and the impact on him individually as well as more broadly. The Third-Party Reports may also serve to inform the Tribunal as to what public interest remedy may be appropriate, pursuant to section 53(2)(a) of the Act, if the complaint is substantiated. I elaborate on this in the next section of this ruling.

[61] Similar issues and arguments were presented to the Tribunal in *Sargeant* at paras 27–38. I agree with the Tribunal’s conclusions in that case. The references to Third-

Party Reports may be used to provide social context evidence, subject to any other objections to admissibility that may arise at the hearing and any final arguments as to their weight. This evidence can be used to assist the Tribunal in determining whether to draw inferences regarding Mr. Cain's allegations. However, the Commission cannot use the Third-Party Reports as a vehicle to add any specific allegations of systemic discrimination across the correctional system generally.

[62] For these reasons, and with these conditions, paragraph 42(a) of the Commission's SOP should not be struck.

[63] As a final point, the CSC takes issue with the references to itself and its staff throughout the Commission's remedial request at paragraph 42 of its SOP. The CSC argues that these references impliedly seek remedies originating in incidents that occurred outside Drummond.

[64] I disagree. Mr. Cain's allegations and the evidence he presents may end up demonstrating that the CSC and its staff engaged in discriminatory practices towards him at Drummond that arise from policies and practices in place in Drummond, but which are also applied at other institutions. Remedies to correct these discriminatory practices under section 53(2)(a) of the Act may consequently also apply beyond Drummond. This does not mean that the remedy does not arise from evidence relating to Mr. Cain's complaint.

(v) The Commission's remedial requests (paragraph 42) do not expand the scope of the case

[65] The public interest remedies that the Commission seeks pursuant to section 53(2)(a) of the Act, as set out in paragraph 42 of the Commission's SOP, are quite extensive and run for about four pages. The Commission states that these remedies are consistent with recommendations in reports from the Office of the Correctional Investigator and the Auditor General of Canada.

[66] The requested public interest remedies include that the CSC be ordered to develop and implement a national institutional strategy to address barriers faced by Black prisoners. The Commission further requests that the CSC be ordered to take measures relating to

security classification, staff education, training, accountability, and oversight. The Commission also seeks orders addressing disparities in discretionary misconduct and institutional charges and asks that the CSC review other policies.

[67] The CSC submits that these requests for remedies that are national in reach are outside the scope of this complaint, which is centred on events that Mr. Cain experienced at one institution, Drummond. Since these remedies “cannot flow” from Mr. Cain’s allegations, they should not be permitted to remain in the Commission’s SOP. The CSC reiterates that the Tribunal is not a Royal Commission. The remedy cannot serve to broaden the scope of the complaint.

[68] I agree with this principle. However, as the Commission correctly points out, these sorts of remedies can flow from the specific allegations in Mr. Cain’s complaint, if substantiated. For instance, the evidence he may present about the alleged deficiencies in his programming, denial of employment, and representation on prisoner committees may show that the source of these issues exists not only at Drummond but also at other institutions through national policies. The appropriate remedy may then correct the problem not only at Drummond but nationwide and, as such, effectively be “systemic.” But this does not mean that the remedy is not sourced within the parameters of the complaint.

[69] I also see no issue with the Commission’s reliance on Third-Party Reports to develop its remedial request. If the Tribunal determines that a given remedy is an appropriate measure to redress the discriminatory practice in question and prevent its recurrence, it is within the Tribunal’s authority to order it irrespective of its source.

[70] For these reasons, paragraph 42 of the Commission’s SOP should not be struck.

B. Applicable legal principles regarding the motion for further particulars

[71] As the Tribunal held in *Liu (on behalf of IPCO) v. Public Safety Canada*, 2025 CHRT 90 at para 89, in accordance with section 50(1) of the Act, 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. The purpose of particulars is to define the issues, to prevent surprises, to enable the parties to prepare for the trial, and to facilitate the hearing (see *Public Service Alliance of Canada v. Canada (Minister of Personnel for the Government of the Northwest Territories)*, 1999 CanLII 19858 (CHRT) at para 11). Parties must disclose sufficient facts to enable other parties to prepare themselves for the hearing.

[72] The CSC submits that some of the facts and allegations in Mr. Cain's and the Commission's SOPs are vague or set "moving targets" and therefore require further particularization.

(i) Mr. Cain's SOP

(a) Paragraphs 20 to 33

[73] The CSC asks that Mr. Cain confirm the accuracy of the date mentioned in paragraph 20 (October 22, 2020). Mr. Cain confirmed the date's accuracy. I already determined earlier in this ruling that the fact that this date is prior to the complaint period does not warrant striking this paragraph.

[74] For several of the remaining paragraphs in this grouping, the CSC seeks the identity of the CSC employees referred to and the exact number of inmates involved. Mr. Cain states that he does not know the identities of the CSC employees he is referring to, explaining that it is not common practice for him and other inmates to know staff members' names. He also does not know the number of inmates referred to in paragraph 20. He points out that the CSC is best placed to know the names of its employees who were working when the incident occurred.

[75] Given that Mr. Cain does not have the information being sought, no further particularization is required. The absence of this detail does not prevent the CSC from knowing the case it has to meet. The issues can be further explored through cross-examination.

(b) Paragraph 35

[76] The CSC seeks the identity of the supervisor referenced in the incident described, as well as the date on which it occurred. Mr. Cain responds that he does not know the person's name or the exact date. The issue can be further explored in cross-examination and I accept that the CSC is best placed to know the identity of its supervisors.

[77] Further particularization is not required.

(c) Paragraph 38

[78] Mr. Cain provided the answer in his response.

(d) Paragraphs 41 to 44

[79] Mr. Cain provided the answers in his response.

(e) Paragraphs 49 to 51

[80] The CSC seeks the name of the CSC employees referred to. Mr. Cain again responds that he does not know their names. The issue can be further explored in cross-examination.

[81] Additional particularization is not required.

(f) Paragraphs 62, 68, 69, 71 to 73, and 81

[82] Mr. Cain provided the answers in his response.

(g) Paragraph 86

[83] In paragraph 86, Mr. Cain alleges that the CSC gave limited access to himself and other inmates of colour to "jobs of trust." The CSC asks for the identities of the other inmates. Mr. Cain explained that he is referring to the CSC's alleged practice of setting aside only

one position out of four at the canteen for the ethnocultural inmates. It is this limitation that he alleges restricts access. He submits that the identity of specific individuals is therefore unnecessary.

[84] I accept this response. It is the alleged practice itself that is in issue, not a specific person.

(h) Paragraph 94

[85] Mr. Cain provided the answers in his response.

(i) Paragraph 95 (first three lines)

[86] Mr. Cain asks as a remedy, in the remaining unstruck portion of this paragraph, that the CSC “carry out a special plan or arrangement designed to prevent the disadvantages” that he suffers or related to the prohibited grounds of discrimination in his complaint.

[87] The CSC contends that this paragraph is insufficient for it to know the case it has to meet regarding this request. Mr. Cain says that he is prepared to provide an outline of what he seeks but submits that requiring him to do so now would be premature, given that the inquiry has not yet begun. I agree with the CSC that this paragraph lacks the required particularization.

[88] This remedy appears to be based on section 53(2)(a) of the Act—an order that a respondent adopt measures to redress the discriminatory practice or prevent it from recurring. I note that the Commission’s remedial request at paragraph 42 of its SOP is of the same nature, though far more extensive. I address it in detail later in this ruling.

[89] If Mr. Cain wishes to retain paragraph 95, he will need to provide further particulars. Alternatively, if he is satisfied with the Commission’s similar remedial request, he may delete paragraph 95. In that case, he would not need to provide further particulars and could rely on the Commission’s submissions for this kind of remedy.

(j) Paragraphs 102, 105, and 107

[90] Mr. Cain provided the answers in his response.

(k) Paragraphs 108 to 110

[91] These paragraphs relate to the financial compensation that Mr. Cain is seeking. In his response to the CSC's motion, he provided the required additional particulars regarding the sums being sought.

[92] Regarding the details about the dates of his diagnosis, and any notes or reports, that information should be provided to the CSC. However, Mr. Cain explains that as an inmate, it is difficult to obtain the information without the CSC's assistance. The CSC states in its reply that it is prepared to collaborate with the other parties to obtain this information. As part of the parties' ongoing duty to disclose (see Rule 24 of the Rules of Procedure), Mr. Cain will need to share with the other parties any documents obtained through this process that are arguably relevant to the issues of this case.

(ii) The Commission's SOP

[93] The CSC requests further particulars regarding the remedial order that the Commission seeks, set out in paragraph 42 of its SOP. The CSC points to references in the paragraph such as "institutional classification procedures," "relevant policies and practices," "measures," and "institutional policies and practices." The CSC states that these terms are not sufficiently detailed and that it is left guessing at what to respond.

[94] As I have already noted, the passage in the Commission's SOP regarding remedies is four pages long. It is hardly brief. The Commission also points out that the remedial order it seeks is based on recommendations from existing public documents that it references in its SOP, which may be even more detailed than what is stated in paragraph 42. It also bears noting that given the suspension of timelines, which the CSC requested, it has yet to disclose the arguably relevant documents in its possession in accordance with the Rules of Procedure.

[95] I find that at this stage of the process, the remedies are sufficiently articulated. I accept the Commission's submission that without disclosure from the CSC, and at this early juncture, further particularization is not warranted. The additional information that the CSC seeks may become apparent during the hearing once the evidence is heard. At that point, if needed, the Tribunal could direct that additional information be provided.

[96] For instance, the "specific institutional policies or practices" mentioned in paragraph 42(c)(i) of the SOP, which the Commission asks be amended, are those that are "found to have contributed to the discriminatory treatment of Mr. Cain." This can only really be determined once the evidence has been heard. It is reasonable for the Commission to hold off any further particularization at this stage of the hearing process.

[97] Furthermore, just because the CSC posts its policies on its webpage does not mean that the Commission and Mr. Cain can be considered sufficiently informed to present a more particularized public interest remedy claim than has already been presented. There may be other elements to the alleged discriminatory practice than those policies, which could emerge through disclosure and the entering of evidence at the hearing.

[98] For these reasons, the request that paragraph 42 of the Commission's SOP be further particularized at this time is denied.

VI. ORDER

[99] The CSC's request to strike certain paragraphs from Mr. Cain's SOP and for further particulars is granted in part.

[100] The following paragraphs from Mr. Cain's SOP or portions thereof are struck:

- 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13;
- 95 (last nine lines); and
- 99.

[101] Mr. Cain must provide the following additional particulars:

- 1) Paragraph 91: Mr. Cain must indicate in his amended SOP the specific facts from those already alleged that according to him would constitute the discriminatory practice of harassment under section 14 of the Act.
- 2) Paragraph 95 (first three lines), unless it is withdrawn: Mr. Cain must explain what is meant by his request for an order compelling the CSC to carry out a special plan or arrangement designed to prevent the disadvantages that he is likely to suffer, or to eliminate the disadvantages that he currently suffers based on or related to the prohibited grounds of discrimination identified within his complaint.
- 3) Paragraph 110: Mr. Cain must provide details about his physician, the date of his diagnosis, as well as information about the notes or reports regarding the diagnosis.

[102] Mr. Cain must file an amended version of his SOP with the struck paragraphs removed within three weeks following receipt of this ruling.

[103] The CSC must file its SOP within three weeks after receipt of Mr. Cain's amended SOP. I am not providing any actual dates for the subsequent filing of documents given the delays that can occur when exchanging correspondence with Mr. Cain while he is incarcerated.

[104] Mr. Cain and the Commission may file their replies within two weeks after the CSC files its SOP.

Signed by

Athanasios Hadjis
Tribunal Member

Ottawa, Ontario
February 27, 2026

Canadian Human Rights Tribunal

Parties of Record

Tribunal File: HR-DP-3053-24

Style of Cause: Jason Cain v. Correctional Service of Canada

Ruling of the Tribunal Dated: February 27, 2026

Motion dealt with in writing without appearance of parties

Written representations by:

Jason Cain, for himself

Khizer Perez, for the Canadian Human Rights Commission

Vincent Reindeau and Joshua Wilner, for the Respondent