

**Canadian Human  
Rights Tribunal**



**Tribunal canadien  
des droits de la personne**

**Citation:** 2023 CHRT 10

**Date:** March 14, 2023

**File No:** T2656/3221

**Between:**

**Christina Gagno**

**Complainant**

**- and -**

**Canadian Human Rights Commission**

**Commission**

**- and -**

**Royal Canadian Mounted Police**

**Respondent**

**Ruling**

**Member:** Jennifer A. Orange

## Table of Contents

I.	Overview .....	1
II.	Context.....	1
III.	Issues.....	1
IV.	Analysis.....	2
	A.    Should the Respondent disclose the officer’s unredacted notes and occurrence reports? .....	3
	B.    Should the Respondent disclose its contracts with sign language interpretation services from August 2015 to the present? .....	5
V.	The Order.....	6

## **I. Overview**

[1] The Complainant, Christina Gagno, has brought a motion for an order directing the Respondent, Royal Canadian Mounted Police (RCMP), to disclose:

- A) Any unredacted police officer notes and occurrence reports pertaining to the Complainant's interaction with the Respondent that led to this Complaint;
- B) Any contracts or agreements between the Respondent and sign language interpretation service providers, for the period of August 2015 to present; and
- C) The Respondent's Cadet Training Program Overview, dated October 20, 2021.

[2] On November 9, 2022, the Respondent disclosed the documents relating to item (C) and the Complainant is no longer pursuing that element of the motion.

## **II. Context**

[3] The Complainant, who is Deaf, alleges that she has been discriminated against by the Respondent when it failed to take steps to obtain a sign language interpreter when an RCMP officer met with the Complainant in August 2015 in Langley, BC.

[4] The Respondent admitted that it discriminated against the Complainant. The parties set out to exchange documents and draft an agreed statement of facts that could expedite the resolution of this matter. This motion arises as a result of the exchange of documents. Statements of Particulars have not yet been filed.

## **III. Issues**

- A) Should the Respondent be required to provide an unredacted copy of the officer's notes and occurrence reports pertaining to the Complainant's interactions with the Respondent?

- B) Should the Respondent be required to provide any contracts or agreements between the Respondent and sign language interpretation service providers for the period of August 2015 to the present?

#### IV. Analysis

[5] It is important to recall the purpose of disclosure requirements. Parties must be given a full and ample opportunity to present their case (s. 50(1) of the *Canadian Human Rights Act*, R.S.C., c.H-6 (the “Act”). This includes the right to the disclosure of all arguably relevant information held by the opposing party so each party knows the case they must meet and can prepare for the hearing. See *Egan v. Canada Revenue Agency*, 2019 CHRT 8 at para. 4 [*Egan*].

[6] The Tribunal’s *Rules* require parties to disclose a copy of all documents in their possession that relate to a fact, issue or form of relief that is sought in the case, including those identified by other parties (Rule 19(1)(e)). This is also an ongoing obligation (Rule 24(1)(2)) (*White v. Canadian Nuclear Laboratories*, 2023 CHRT 2 at para. 12 [*White*]).

[7] The threshold for disclosure is arguable or possible relevance. While this threshold is not particularly high, a party seeking production of a document must still show that there is a rational connection between the document it seeks and the issues raised in the complaint (*T.P. v. Canadian Armed Forces*, 2019 CHRT 19 at para 11; *Turner v. CBSA*, 2018 CHRT 1 at para 30 [*Turner*]). Requests for disclosure should not be speculative or amount to a fishing expedition and the Tribunal can not accept as evidence any information that is privileged (*Egan* at para. 4 and *Egan v. Canada Revenue Agency*, 2017 CHRT 33 at paras. 31-32; *Turner* at para 30).

[8] The fact that documents are disclosed does not mean that they will be admitted as evidence at the hearing (*White* at para 14).

**A. Should the Respondent disclose the officer's unredacted notes and occurrence reports?**

[9] According to the Amended Notice of Motion of the Complainant, the Respondent has produced officers' notes from the scene of the incident and two documents labelled, "RCMP General Occurrence Report 2015-28031". The documents are attached as Exhibits C, D, and E to the Affidavit of Salina Dewar filed in support of the motion. Portions of these documents are redacted.

[10] The Respondent submits that unredacting the names of individuals contained in the officer's notes would be a violation of the *Privacy Act*, R.S.C., 1985, c. P-21, and that third party information contained in police officer notes and police occurrence reports are covered by a form of privilege.

[11] The Respondent also submits that because it has admitted liability in this case and the Complainant has first-hand knowledge of who attended the scene of the incident, that the potential witnesses' testimony is not essential for the Complainant to prove her case, nor is it arguably relevant.

[12] The Complainant submits that the officers' notes and General Occurrence Report contain the officers' observations of the scene of the incident and the names of witnesses present and that these are relevant to the Complaint and possible remedies. Furthermore, the Complainant submits that the Respondent has offered no explanation of why the reports or officers' notes are privileged.

[13] The Canadian Human Rights Commission submits that these notes and reports are relevant to the individual and systemic remedies and that the *Privacy Act* does not apply to the Respondent's disclosure obligations. It further submits that the Respondent's claim of privilege with respect to the redactions is unsubstantiated.

[14] After reviewing the Affidavit of Salina Dewar with its Exhibits, the *Privacy Act* and considering the parties' motion materials, I find that the officers' notes and RCMP General Occurrence Report 2015-28031 should be produced unredacted.

[15] At this point in the matter, the Respondent has admitted discrimination, but the scope of the admission has not been defined. Given this stage in the proceedings, it seems self-evident that the identity of potential witnesses and information in officers' notes and reports are arguably relevant to the substance of the Complaint and potential remedies.

[16] Furthermore, the Respondent has not established that the *Privacy Act* prohibits it from releasing arguably relevant personal information in the production of documents under this Tribunal's rules.

[17] The *Privacy Act* states in s. 8(2)(c) that:

Personal information under the control of a government institution may be disclosed ...

(c) for the purpose of complying with a subpoena or warrant issued or order made by a court, person or body with jurisdiction to compel the production of information or for the purpose of complying with rules of court relating to the production of information; ...

[18] Therefore, the Respondent may disclose personal information as part of the Respondent's production obligations in accordance with the Tribunal's Rules. I find the rulings in *Windsor-Brown v Royal Canadian Mountain Police*, 2020 CHRT 11 and *Hughes v Transport Canada*, 2012 CHRT 26 persuasive in this regard.

[19] Furthermore, the information in the documents at issue will be protected by the implied undertaking rule that requires that a party not disclose information obtained pursuant to its disclosure obligations for any purpose collateral to the litigation (*Public Service Alliance of Canada (Local 70396) v Canadian Museum of Civilization Corp.*, 2004 CHRT 38 at para 12).

[20] At this stage, the documents are not evidence (*White* at para 14). If they are admitted into evidence at the hearing pursuant to Rule 38 of the Tribunal Rules of Procedure, and the Respondent is concerned about witness names, it can bring a motion for a confidentiality order concerning specific individuals at that time.

[21] The Respondent has not identified the form of privilege that may apply to these documents, and I find that the privilege claim is unsubstantiated.

**B. Should the Respondent disclose its contracts with sign language interpretation services from August 2015 to the present?**

[22] The Complainant seeks the Respondent's contracts or agreements with sign language interpretation services from August 2015 to the present and submits that these are relevant to the relief sought by the Complainant. The Complainant seeks an order that the Respondent take measures to prevent the same type of discrimination experienced by the Complainant from occurring in the future.

[23] The Complainant seeks disclosure of the Respondent's contracts in British Columbia, where the incident took place, and across Canada as she is seeking systemic, nation-wide remedies.

[24] The Complainant has submitted expert evidence in support of this motion describing the steps the Respondent should follow to ensure that the Complainant and other people who are Deaf, deafened or hard or hearing are not discriminated against (Amended Notice of Motion of the Complainant, para 12; Expert Report of Dr. Debra Russell).

[25] The Respondent submitted that it has 19 employees in "E" Division (the province of British Columbia) that indicate proficiency in ASL and, of those 19, 10 are certified ASL translators. The Respondent stated that it does not have any contracts to disclose, but that when RCMP employees are not able to provide ASL translation assistance, members can contact Language Services Associates ([www.LSAWEB.com](http://www.LSAWEB.com)), a third-party provider. The Respondent explained that each detachment is responsible for contracting with Language Services Associates independently and there is no tracking of the use of this service.

[26] The Canadian Human Rights Commission takes no position regarding this aspect of the Complainant's disclosure request.

[27] A contract between a sign language service provider and the detachment in which the incident took place in August 2015 may be arguably relevant to the issue of whether and how much compensation may be owing under s. 53 of the *Act* because the Complainant's expert report refers to the existence of such contracts.

[28] The Complainant's expert report further refers to the need for sign language services providers to be accessible in order for the Respondent to prevent discrimination. Therefore, current contracts between RCMP detachments and sign language interpretation service providers may be arguably relevant to systemic remedies.

[29] I find that the obligation of the Respondent to produce contracts includes contracts that its detachments have with sign language interpretation service providers as the Respondent has a relationship of control with its own detachments.

## **V. The Order**

[30] For all of the reasons above, the Tribunal allows the Complainant's motion in part and orders that:

1. Within 14 days the Respondent produce unredacted police officer notes and occurrence reports pertaining to the Complainant's interactions with the Respondent that led to this Complaint;
2. Within 30 days the Respondent produce all contracts or agreements between the Respondent, including its detachments, and sign language interpretation service providers for the month of August 2015 that cover the geographic area of Langley, BC;
3. In light of the principles of proportionality and efficiency, within 30 days the Respondent produce all contracts or agreements between the Respondent, including its detachments, and sign language interpretation service providers in force on the date of this ruling within the province of British Columbia. The Complainant may re-open this aspect of the motion regarding the rest of Canada in the future.

*Signed by*

Jennifer A. Orange  
Tribunal Member

Ottawa, Ontario  
March 14, 2023



## **Canadian Human Rights Tribunal**

### **Parties of Record**

**Tribunal File:** T2656/3221

**Style of Cause:** Christina Gagno v. Royal Canadian Mounted Police

**Ruling of the Tribunal Dated:** March 14, 2023

**Motion dealt with in writing without appearance of parties**

**Written representations by:**

Andrew Robb, for the Complainant

Jonathan Robart, for the Canadian Human Rights Commission

Edward Burnet, for the Respondent