



October 29, 2024

TO: Constable Tim Cowley <cowleyt@ottawapolice.ca>

CC: Ottawa Police Services Chief Eric Stubbs, Mayor of Ottawa
<Mark.Sutcliffe@ottawa.ca>, Police Chief Eric Stubbs <eric.stubbs@ottawa.ca>,
Ottawa Police <info@ottawapolice.ca>, Executive Director of the Ottawa Police
Services Krista Ferraro <krista.ferraro@ottawa.ca>, Ottawa Police Services Board
Assistant Randa Ben Guedria <randa.benguedria@ottawa.ca>

Dear Ottawa Police Services Constable Tim Cowley,

I am following up with you as to my letter from last month regarding my assistant's conversation with you on September 25th, 2024. I gather from your lack of response that you did not receive the necessary go ahead with your superiors to meet with me or to respond to my letter, because the Ottawa Police Service is not yet ready to pronounce itself on this matter.

That is fine, and I understand that complex organizations and institutions such as the OPS have their own decision making processes and hierarchies. I do however wish to draw your attention, and that of your superiors, to a recent unanimous decision issued by the Supreme Court of Canada on July 26th, 2024 in [Ontario \(Attorney General\) v Restoule, 2024 SCC 27](#). The matter at law related to the failure of the Province of Ontario to uphold the terms of the Robinson-Huron and Robinson-Superior Treaties. The following are some excerpts from the Supreme Court's decision which may prove to be of relevance to your organization:

- "There is a strong public interest in reconciliation between Indigenous Peoples and the Crown. Indeed, this Court has conclusively determined that reconciliation is the fundamental purpose of section 35 of the Constitution Act, 1982. This Court has also repeatedly found that negotiation, rather than litigation, is better suited to achieving true reconciliation."
- "In *First Nation of Nacho Nyak Dun v. Yukon*, this Court held both that (a) courts play a critical role in safeguarding treaty rights, and (b) courts should exercise judicial restraint to ensure that they "generally leave space for the parties to govern together and work out their differences." While that statement was made in relation to a modern treaty, similar principles apply here, where a historic treaty obligation has been ignored by the Crown for over a century. In these circumstances, reconciliation requires the parties to turn their minds together to the task of renewing their relationship. The object is to achieve a respectful and mutually beneficial process and outcome to give effect to the core of the treaty right."



CHIEF DELBERT RILEY
HEREDITARY CRANE CLAN CHIEF, CHIPPEWA NATION



- “This Honourable Court’s guidance is not needed on the question of whether the Crown has an unfettered discretion in deciding how to implement treaty promises or Aboriginal and treaty rights generally. This Court has already determined that the honour of the Crown governs treaty making and implementation, and requires the Crown to act in a way that accomplishes the intended purposes of treaties and the solemn promises it makes to Indigenous Peoples. This duty cannot coexist with an unfettered and unreviewable discretion on the part of the Crown.”
- “In *Marshall*, Justice Binnie noted the long pedigree behind the principle that the honour of the Crown attaches to the performance of the Crown’s treaty obligation, starting with Justice Gwynne’s decision in 1895 that the faith and honour of the Crown is pledged to the fulfillment of treaty terms. In *Badger*, this Court held that treaties involve the exchange of “solemn promises,” that they are agreements whose nature is “sacred,” and that the honour and integrity of the Crown is at stake in considering treaties. In *Mikisew Cree*, this Court held that “the honour of the Crown infuses every treaty and the performance of every treaty obligation.” More recently, in *Manitoba Metis Federation*, this Court held that the honour of the Crown requires a purposive approach to the implementation of treaty rights. These principles are now settled beyond any reasonable dispute.”
- “An honourable Treaty partner does not wait for courts to compel it to take action to remedy historical breaches.”

I think that if you examine recent Supreme Court decisions on Aboriginal and treaty rights over the past several years, you will see that they are articulating a position not dissimilar to the one that I have been making for the last 50+ years.

I also wish to take this opportunity to inform you and your superiors that I am representing several new Indigenous cannabis stores in Ottawa that are owned by Bryan Brant of Tyendinaga Mohawk Territory. Those stores are as follows:

- Indigenous Cannabis Culture located at 404 Dalhousie Street, Ottawa
- Native Cannabis Depot located at 1708 Bank Street, Ottawa
- Indigenous Canna + Wellness located at 1307 Wellington Street, Ottawa
- Tribal located at 487 Rideau St., Ottawa

In addition to these stores, Anthony Tenasco of the Red Roots Trading Company based in Kitigan Zibi, who I have represented since I wrote my first letter to the City of Ottawa and the OPS on his behalf on April 20th, 2023, has opened two new stores:

- Red Roots Trading located at 1717 Bank St., Ottawa



- Red Roots Trading located at 122 Clarence St., Ottawa

In addition to these stores, I represent Mr. Tenasco at his stores:

- Red Roots Trading located at 196 Beechwood Ave., Vanier
- Red Roots Trading located at 1990 Russell Rd, Ottawa

Mr. Thomas Nicholsan of Pikwakanagan with his store:

- Native Grasslands trading post located at Unit B, 2561 Baseline Rd., Ottawa

Mr. Justus Wilcox of Pikwakanagan:

- Native Smoke on the Water located at 5692 Ferry Road, Ottawa

Mr. Robert Fisher Tehonikonrathe of Tyendinaga Mohawk Territory:

- My Legacy Cannabis Dispensary located at 399 Dalhousie St, Ottawa
- My Legacy Cannabis Dispensary located at 366 Bank St, Ottawa

I represent all of these stores because it is my understanding, as the National Chief who negotiated the inclusion of Sections 25 and 35 in the Canadian *Constitution Act, 1982*, that these store owners have a constitutionally protected Aboriginal and treaty right to operate their trading posts on their shared unceded lands. In my previous letters to you and the City of Ottawa and the OPS (letters of September 27, 2024, April 20th, 2023, and April 22nd, 2024) I have outlined my argument as to why this is the case, so I won't repeat it here.

All of the stores listed above have confirmed to me that they meet or exceed the standards established by the North Shore Anishinabek Cannabis Association to ensure public health and safety in the regulation of the Indigenous cannabis industry.

Should you at any point have any issue or concern with any of the stores listed above, or the broader question of the application of Aboriginal and treaty rights, please do not hesitate to contact me. I will come and address the matter with you following the principles of the reconciliation and renewal of our relationship that the Supreme Court of Canada outlined above – through “a respectful and mutually beneficial process and outcome to give effect to the core of the treaty right.”

Miigwetch,

Chief Del Riley

Former National Chief Del Riley, Crane Clan Chippewa Nation