

Members First

The official newsletter of The Mounted Police Members' Legal Fund

Fall 2001



THE MOUNTED POLICE MEMBERS' LEGAL FUND
FONDS DE RECOURS JURIDIQUE DES MEMBRES DE LA GENDARMERIE



MPMLF to the Rescue

by *Cst Jill M. Swann*
Oceanside Det., "E" Div.

My story starts with the transfer to my very first post. Upon arrival in my home town to supervise the movers packing my effects, I was advised that the moving company had not yet been selected. As I was due at my new detachment, my effects would have to be sent later.

The troubles I experienced were a result of several chain reactions. Of the personal effects that had arrived, a large portion was damaged. I contacted the insurance company, had a total of four adjusters go through my stuff, and began the process of filing a claim. Meanwhile, I became a member of the Mounted Police Members Legal Fund (MPMLF) as I had heard of members that were being sued in civil court for doing their job. I was new to this job and felt that there appeared to be much more personal accountability and liability in doing the work we do.

The insurance company reviewed my claim and ruled that the RCMP was actually responsible for the damages because the contracted company was hired late, thereby not giving me an opportunity to supervise the packing. The RCMP approved the company that was hired, etc., etc. . . . The end result was that the insurance company did not feel that they should pay the claim but that the RCMP should. I contacted the RCMP and advised them of this. I was told that there was nothing in policy for this situation and therefore nothing could be done. I was stuck in the middle.

I contacted my Divisional Staff Relations Representative for assistance. I was running out of time and patience. I was given advice from co-workers and the DSRR that I should get a

lawyer and take the matter to court. I decided to do that. I felt better that the matter would go to court and a judge could resolve the entire mess. Knowing my case would be heard in Supreme Court, I required a competent lawyer I trusted. That also meant expensive. The DSRR and my lawyer were able to gather the required information to present my case. It was decided that instead of suing everyone, I would pursue the matter against both of the moving companies that were involved.

Time passed, and prior to an "Examination of Discovery," the moving companies made an offer to settle the matter out of court. After three and a half years, a deal was made, and the matter was almost over. I accepted a financial settlement,

half of what I was asking, but it was a compromise. What remained was paying my lawyer. I was very fortunate in the fact that my DSRR suggested I forward a request to the Legal Fund for compensation for that expense. The Legal Fund reviewed my request and approved it. I was very thankful as the bill reflected a couple of years of work by my lawyer. I continue to be a part of the Legal Fund and have seen, heard, and experienced the benefits of the service they can provide. I was grateful for the support I received from my co-workers, my DSRR, and the Legal Fund. If I can share one positive thing from my experience, it is the fact that the Legal Fund is worth the peace of mind you get for only \$2 a paycheque — really, the cost of a fancy coffee.

Members Appreciation Night

On May 9th, 2001, with the assistance of Summa Strategies, the Directors of the MPMLF held an appreciation night on Parliament Hill for Members of Parliament and Senators. The sole purpose of the event was for the Legal Fund Directors to show support for the work of the MPs on behalf of our organization and the citizens of Canada. The evening was a tremendous success, with many favourable comments received during and after the event. Many valuable contacts were made. Some Directors were asked by MPs for further meetings in their constituencies to discuss mutual concerns. It was an opportunity to express our gratitude towards those who have supported past issues, including issues related to pay. We look forward to future support in these areas.

Our thanks to Summa Strategies and Gordon Clarke, Secretary-Treasurer of the Fund, for organizing this event.

Our Members Write...

To the Editor: Please find attached a completed application for membership to the Mounted Police Members' Legal Fund and authorization for payroll deduction.

I would also like to take this opportunity to comment on the newsletter. It is upon reading the newsletter that I was reminded how important the Legal Fund really is. The testimony of the Nanaimo members made me realize that any one of us could be in that same or similar predicament. The newsletter is aesthetically pleasing and has a professional appearance. The newsletter also serves as a good reminder about a number of legal issues which we do not always stop and think about unless it is pointed out to us.

It is with great pleasure that I become a member and wonder why I did not subscribe earlier. I hope, however, that I personally never have a need to seek your assistance. Keep up the good work.

Yours truly,
Cpl J.D. Cormier
Edmonton IPOC Section

Commission for Public Complaints Against the RCMP

Parliament established the Commission for Public Complaints Against the RCMP in 1988. Its main purpose was to reinforce public confidence in the RCMP by making it accountable for the conduct of its members. Until 1988, public complaints about the RCMP were handled exclusively by the RCMP. In creating the Commission, Parliament acknowledged a need for a fair, impartial, and independent agency to act in the public interest, both to protect the rights of citizens and to protect members of the RCMP who may be accused unfairly of improper conduct.

The Role of the Commission

As mentioned above, the Commission is an independent body. It is not part of the Royal Canadian Mounted Police. The Commission receives complaints from the public about the conduct of members of the RCMP; thus, it provides a medium for the public to voice complaints about the conduct of any RCMP member while on duty.

The Commission ensures that the public complaints process is conducted with impartiality and fairness to members of the public and members of the RCMP. When reviewing the disposition of a complaint by the RCMP, the Commission does not act as an advocate either for the complainant or for the RCMP members. Rather, its role is to conduct an independent investigation, reach objective conclusions, and make recommendations designed to improve RCMP practices.

For the Commission to be effective in its role as an oversight agency, it must ensure that RCMP members are accountable to the public they serve for their use of extraordinary powers. To do this, the public must always be free to initiate a complaint about a member's conduct so that the public complaint process designed by Parliament can determine whether the conduct in question was appropriate or inappropriate in the circumstances. Members should be aware that, generally, once a complaint is filed, the process is engaged and proceeds until the conduct is determined to be appropriate or inappropriate. Clearly, an impartial public complaint process operates to the benefit of both members of the public and members of the RCMP.

Commission Statement

Our Vision: *"Excellence in policing through accountability."*

Our Mission: *"To provide civilian oversight of RCMP members' conduct in performing their policing duties so as to hold the RCMP accountable to the public."*

The Jurisdiction of the Commission

The Commission has jurisdiction over a complaint if it involves conduct in the performance of a duty or function under the RCMP Act. For instance, the Commission may investigate or

review conduct related to the policing functions performed by members of the RCMP but, generally, does not investigate or review the personal off-duty conduct of members of the RCMP. Likewise, the Commission does not investigate or review conduct relating to the administration or management of the affairs of the RCMP. In this respect, the Commission has no role in the resolution of disputes between members and management nor, for example, will it receive complaints from towing companies alleging that they are not getting a fair share of referrals.

The Commission makes findings and recommendations; it is not a court of law, nor is it a disciplinary body of the RCMP. It is important for members of the RCMP to note that the Commission is not empowered to make findings of civil or criminal liability in respect of the complainant or the member. It simply examines allegations of improper police conduct and, where the allegation is substantiated, it recommends action, including changes to RCMP policy that would provide police officers with clearer guidelines for carrying out their duties.

The Process of a Complaint

Any member of the public may complain directly to the RCMP, to the Commission, or to provincial policing authorities. The Chair of the Commission may also initiate a complaint.

Complaints received by the Commission are referred to the RCMP for investigation. In some cases, before a formal complaint is sent to the RCMP for investigation, the Commission identifies concerns that can be dealt with informally. The Commission has instituted an alternative dispute resolution process whereby Commission staff acts as a neutral third party to facilitate a resolution in a less adversarial manner. This initiative has had enormous success resulting in fewer complaints being marshalled through the formal complaint process.

When a complaint is sent to the RCMP for investigation, the RCMP may attempt to dispose of the complaint informally through alternate dispute resolution techniques provided that the complainant and the RCMP member involved agree. If the complaint is not disposed of informally, the RCMP then conducts an investigation. Once the investigation is completed, the RCMP reports the results, including a summary of any action taken or to be taken, to the complainant and the police officers involved. In its report, the RCMP must advise complainants of their right to refer their complaint to the Commission for review if they are not satisfied.

The majority of complaints are disposed of by the RCMP without further involvement on the part of the Commission.

The Review of a Complaint by the Commission
However, if a complainant is not satisfied with the RCMP report, he/she may write to the Commission Chair asking for an independent review of the complaint. Where the Commission has been asked to review a complaint, the Commission Chair may:

- review the complaint without investigating further;
- ask the RCMP to investigate further;
- initiate her own investigation; and/or
- hold a public hearing.

Following the review, if the Commission Chair is satisfied with the RCMP's disposition of a complaint, she reports this finding in writing to the complainant, the RCMP member(s) involved, the RCMP Commissioner, and the Solicitor General, who is the Minister responsible for the RCMP. If the Commission Chair is not satisfied, she sends an interim report to the RCMP Commissioner and to the Solicitor General.

The Commissioner of the RCMP must respond to the interim report, indicating whether he agrees with the Chair's recommendations and what further action will be taken with respect to the recommendations. If the Commissioner decides not to act on any findings or recommendations, he must include the rationale for his decision.

After considering the Commissioner's response, the Chair prepares a final report, which includes the Chair's final recommendations, and sends it to the complainant, the RCMP member(s) involved, the Commissioner of the RCMP and the Solicitor General.

Additionally, at any stage of the process, the Chair of the Commission may institute an investigation or a hearing where she considers it advisable in the public interest.

Getting in Touch with the Commission:

Toll-free number: 1 (800) 665-6878

Vancouver area: 1 (604) 501-4080

Fax number: 1 (604) 501-4095

Address: 7337 137th Street,

Suite 102
Surrey, British Columbia
V3W 1A4

E-mail: complaints@cpc-cpp.gc.ca

Web site: www.cpc-cpp.gc.ca

10,000th Member of the Legal Fund



Nancy Power, CM, Halifax OCC

National Law Firms Provide Counsel to the MPMLF

During the genesis of the Mounted Police Members' Legal Fund (MPMLF), it was envisioned that the Fund would employ a large, high profile, national, and diverse law firm as its counsel of record. The primary purpose was twofold: firstly to provide us with competent counsel from a firm that was large enough to provide accurate advice by way of "one-stop shopping"; and secondly to raise the profile of the Fund through a firm which, through the use of political ties, could circumvent some litigation through alternate means. We also envisioned creating a team with our political strategists at Summa to work with each other on national issues. Furthermore, a national firm would provide regional advice for issues of local interest.

The MPMLF has selected not one but two large law firms to act as our national counsel: Heenan Blaikie, whose head office is in Montreal, through a partner in the Calgary office, Robb Beeman; and Fraser Milner Casgrain, whose head office is in Toronto, through its contact, Rick Kesler.

It is important to know a short history of each firm. Heenan Blaikie is a renowned national firm headed by Roy Heenan. He is a very well-respected labour lawyer and heads up perhaps the largest labour law department in any firm in Canada. Politically, this firm is linked to Pierre Trudeau, who was counsel there until his recent passing; Roy Heenan gave a part of the eulogy to Mr. Trudeau at his funeral. The executive has confirmed through its contacts that this firm does, in fact, have a solid reputation and would be a good partner for us to deal with and include on our team. Mr. Beeman has agreed verbally and in writing to be the contact for the MPMLF through his Calgary office. As point person, Mr. Beeman is a distinguished lawyer who is intimate with the Force through his years as Federal Crown counsel in Alberta. He is also very familiar with the MPMLF as counsel to the K Division board and was very helpful in setting up our original bylaws. He is thus an obvious choice to assist in any future amendments. Mr. Beeman

Heenan Blaikie

AVOCATS • LAWYERS

has agreed to maintain a digest of our cases and legal opinions. This is particularly advantageous to the smaller Divisions who could benefit from the opinions sought and paid for by the larger Divisional boards.

Heenan Blaikie also boasts the Honourable Donald J. Johnson, a former Liberal cabinet minister, as associate counsel. It has more than 285 lawyers on staff in offices located in Montreal, Quebec City, Sherbrooke, Trois Rivieres, Toronto, Ottawa, Calgary, Vancouver, and Kelowna. It has associates in the Maritime provinces and an affiliated office in Beverly Hills, California. For further information, please see the firm at: www.heenanblaikie.com.

Fraser Milner Casgrain also offers a national profile, with offices in Vancouver, Calgary, Edmonton, Toronto, Ottawa, and Montreal. Like Heenan Blaikie, it has associate counsel in the Maritime provinces. This firm came to our attention through Summa when we were dealing with the GST issue on the MPMLF dues. Fraser Milner Casgrain lawyer Rick Kesler, who practices taxation law, was asked to review the opinion, and he immediately found an oversight in it. Mr. Kesler has become our point person with that firm through his Toronto office. Before entering private practice, Mr. Kesler was counsel at Revenue Canada. He therefore brings a great deal of taxation experience to the MPMLF.

Fraser Milner Casgrain employs more than 500 lawyers across the country and has been in existence through various partners and mergers since 1830. It has a wide selection of departments looking after most types of law. However, unlike Heenan Blaikie, it does not have a criminal practice.

Fraser Milner Casgrain's political connections come through its senior partner, David Smith, who is a former Liberal cabinet minister and was, most recently, the chair of the Liberal Party of Canada's election fund raising committee during the last Federal election. Recent committee sessions show clearly that this firm is very knowledgeable in dealing with

Government and Revenue Canada issues. It can be visited at: www.frasermilner.com.

On the face of the issue, retaining two law firms may not seem practical, but, after reviewing our options, we believe this could be quite beneficial. From Fraser Milner Casgrain we receive national-level service to deal with issues such as pay equity and pension surplus. In association with Summa, the firm can move matters informally yet professionally with the respective government agency. If and when we reach a point where litigation is the only option, we can move the matter to Heenan Blaikie for follow-up through the courts. The opposite also holds true; in both scenarios, we can be assured we will be dealing with knowledgeable people.

As Fraser Milner Casgrain does not engage in criminal law, we will utilize Heenan Blaikie when feasible, at the Divisional level dealing with member issues. An example would be the Nanaimo incident, in which members faced criminal charges. This will not prevent members from using trusted local lawyers to defend them.

Directors can use these law firms to get the best representation possible for members of the Legal Fund. The MPMLF Executive believes that this arrangement will be equitable for both the firms and our members. We have told both firms that we are not looking for a cheap deal; we only wanted to be treated the same as any of their other large corporate clients.

Requests for Funding Received by Division Legal Fund Boards

Division	Total	Number Approved
E Division	20	17
K Division	32	18
F Division	11	9
D Division	12	7
M Division	0	-
G Division	1	1
V Division	0	-
O Division	0	-
A Division	1	1
HQ Division	2	1
C Division	1	0
J Division	3	1
H Division	4	1
L Division	1	1
B Division	0	-
Depot	1	-
National	7	7



FRASER MILNER CASGRAIN LLP

Do you have any questions or comments about the Members' First newsletter? Would you like to contribute an article or a story idea for a future edition? Let us know by writing to us. Our address is: Mounted Police Members' Legal Fund, P.O. Box 8291, Stn. "T", Ottawa, Ontario, K1G 3H7. Or you can call us at (613) 834-1681 or fax us at (613) 834-2811. Or visit our Web site at <http://home.istar.ca/~agclarke>.



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Spousal RRSPs: A Sound Investment

by Debbie L. Good, CA

A Spousal RRSP is the same as a regular RRSP except that a Spousal RRSP is registered in your spouse's name while you, as the contributing spouse, take a full tax deduction for all the contributions you make to the spousal plan.

How much may I contribute to a Spousal RRSP? Deposits made to a Spousal RRSP cannot exceed your personal contribution limit. Your contribution can be made to a Spousal RRSP, your personal RRSP, or split between the two plans. Deposits made to a Spousal RRSP do not affect your spouse's RRSP contribution limit for the year.

Why contribute to a Spousal RRSP?

The primary reason for establishing a Spousal RRSP is to allow for income splitting at some time in the future, usually retirement. This is accomplished as a result of the assets in a Spousal RRSP being considered the property of the planholder (your spouse). Although there are some restrictions, when funds are withdrawn from the RRSP they are taxed in the hands of your spouse, at your spouse's marginal tax rate. The most advantageous scenario for a Spousal RRSP occurs when the planholder would otherwise have little retirement income, while the contributing spouse would have a significant amount of income.

Let's look at the examples below, which assume that, over the years, Spouse "A" is the primary source of income for the family unit. In the first scenario, Spouse "A" contributes to a personal RRSP and accumulates pension benefits and earns investment income. In the second scenario, Spouse "A" earns the same pension benefits and makes the same investment income but, over the years, has contributed to a Spousal RRSP. In both scenarios, when the couple retires at age 65, the accumulated RRSP proceeds are transferred to a Registered Retirement Income Fund (RRIF) and generate \$20,000 in annual RRIF payments.

As you can see from these examples, investing in a Spousal RRSP can result in considerable tax savings. With no change in their total income, the couple in Scenario #2 increased their after-tax income by \$3,484 or 7.6% just because they invested in a Spousal RRSP.

Restrictions on Withdrawals

In order for withdrawals to be taxed in the hands of the planholder, the contributor must not have made any deposits into the plan in the current year or the two preceding years. For example, if a contribution was made to a Spousal RRSP

anytime in 2000, and no further contributions were made to the plan, in order to avoid having any of the tax attributed back to the contributor, the assets must remain in the plan until January 1, 2003. If the assets are withdrawn prior to that time, whatever money is withdrawn is included in the taxable income of the contributor. Exceptions to this rule, where funds can be withdrawn early without the contributing spouse being taxed, include a marriage breakdown in which the couple lives apart, the death of one spouse, or some circumstance in which either spouse becomes a non-resident.

The restriction on early withdrawals still applies but is slightly modified when a Spousal RRSP is used to purchase a Registered Retirement Income Fund (RRIF) or an annuity. Because income must be taken from these plans, as long as your spouse takes only the minimum amount allowed out of the RRIF or does not commute (terminate) the annuity, none of the income would be included in your taxable income. Once the two full years have passed following the year of the last RRSP contribution, any amount of income taken out of the RRIF or annuity would be considered your spouse's income for tax purposes.

Debbie L. Good is a Chartered Accountant working as an Investment Advisor with BMO Nesbitt Burns in their Charlottetown, PEI, office. She can be reached toll free at 1-800-361-3616 or by e-mail at debbie.good@nbpdc.com

	Scenario #1		Scenario #2	
	Spouse A	Spouse B	Spouse A	Spouse B
Pension	\$16,000	\$ -	\$16,000	\$ -
Interest	3,500	-	3,500	-
CPP	9,020	-	9,020	-
OAS	4,960	4,960	4,960	4,960
RRIF	20,000	-	-	20,000
Total Income	\$53,480	\$4,960	\$33,480	\$24,960
Tax*	12,751	NIL	6,022	3,245
Combined Tax	\$12,751		\$9,267	

Annual tax savings using Spousal RRSP: \$ 3,484

*1999 tax calculation for Ontario residents

What We're Working On...

- Continuing our efforts with respect to Cadet Allowances
- Following up on previous advice concerning the Pension Surplus
- Working on Civilian Member Pay Equity
- Officer safety issues
- Taxation of retirement moves

Application for Membership to the Mounted Police Members' Legal Fund

The Mounted Police Members' Legal Fund is administered by the National DSRR Caucus.

The National Legal Fund

As members of a diverse, internationally recognized organization, there are many issues that concern us. It is imperative we establish a way to aggressively pursue these issues. The protection of a National LEGAL FUND, solely supported by the membership of the RCMP, will fulfill that need.

The Divisional Legal Fund

Through monthly donations, we will have a strong, meaningful fund in each Division, administered by your Division representatives and committee of sub-representatives, with the ability to challenge many of the problems facing us in the performance of our duties.

Acting in Good Faith? On Duty? Off Duty?

The LEGAL FUND can offer protection for members who believe they have acted in good faith carrying out a duty and subsequently face an unfavourable interpretation by the decision authority.

This Is Necessary Legal Insurance

MEMBERS — Complete and mail to your Division Staff Relations Representative (DSRR).

Name (Print) _____

Detachment, section, unit, squad, etc. _____

Division _____

Regimental # _____

Collator code _____

I hereby authorize a payroll deduction from my pay in the amount of \$2 biweekly and authorize transfer of those funds to the Mounted Police Members' Legal Fund.

Signature _____

Date _____