



**MPPAC
ACPMP**

Mounted Police Professional Association of Canada
Association Canadienne de la Police Montée Professionnelle

P.O. Box 76004
Langley, BC
V1M 4B7

Monday 11 April 2011

ATTENTION: S/Sgt. [REDACTED]
RE: Member Grievance, [REDACTED] 'E' Division, BC (Level 1)
CC: Sgt. [REDACTED]

Dear S/Sgt. [REDACTED],

This communication is to advise you that we, the Mounted Police Professional Association of Canada (MPPAC), are pursuing a group grievance on behalf of several of our members from the [REDACTED], 'E' Division, BC.

We are aware that members in this unit have been subjected to a shift schedule change and informed that objections to this unprecedented change would not be tolerated — and, in fact, threatened that any member contesting this change could be subject to transfer.

Moreover, members of this unit were also informed that they would not be financially compensated for hours worked in excess of 80 hours bi-weekly and that this “new schedule” had been officially approved as an RCMP schedule.

We have in our possession copies of this new schedule (see attached). From our review of the current situation in this unit and discussions with our members, we

have found that there are several policies which have been breached inclusive of RCMP National Compensation Policy, The RCMP Administrative Manual, and the Canada Labour Code; they are as follows:

RCMP National Compensation Manual (Revised 2010-12-12)

2.1. Hours Of Work

1. General

1. 1. A full-time (F/T) member is required to work an average of 2087.04 hours per year inclusive of 88 hours designated paid holiday (DPH) and paid leave. He/she receives 80 hours pay at straight-time rate plus allowances per pay period. See the pay periods and pay factors in App. 1-1-2.

1. 2. There are two employment status types whose normal hours of work differ, as follows:

1. 2. 1. An F/T standard workweek (SWW) applies to a member who is assigned by the delegated level to work a minimum 8 hours, Monday to Friday, between the hours of 06:01 and 18:00, for a total of 40 hours a week.

1. 2. 1. 1. A compressed workweek (CWW) applies when an SWW member, not a shift-scheduled work block member, is authorized by the delegated level to complete his/her workweek in a period other than 5 working days, provided the member works an average of 40 hours per week over a period of two calendar weeks.

1. 2. 2. An F/T shift-scheduled work block (SSWB) applies to a member who works 8, but not more than 12 hours per shift, including a meal break for an average of 40 hours per workweek, as calculated over a minimum period of 28 calendar days.

2. Maximum Hours of Work

2. 1. A member will not be authorized to work more than 16 hours consecutively, e.g. scheduled and/or O/T, or more than 72 hours in a 6-consecutive-day period.

2. 2. A member who has reached the 72 hours of work maximum outlined in sec 2.1 or the 80 hours maximum outlined in sec 2.4, or who surpasses the 80 hours maximum in sec. 2.4 and who is scheduled to be on duty within the next 24-hour period, will not be permitted to report to duty during this period.

Exceptional Circumstance

2. 4. When an exceptional circumstance is declared by the delegated level, for the first 72 hours, a member may work more than 16 consecutive hours, and/or up to 80 hours in a 7-consecutive-day period, and/or reduce the TOW period to less than 8 hours. This applies to an unforeseen or unplanned occurrence that requires:

1. 2. 4. 1. the continued delivery of essential police services, e.g. disease outbreak;
2. 4. 2. that continuous processes are not interrupted, e.g. aircraft crash;
2. 4. 3. that emergencies are dealt with effectively, e.g. unknown foreign ship entering Canadian waters, a major crime investigation, police service dogs in pursuit; or
2. 4. 4. urgent repair to equipment, e.g. police vehicles, computers affected by system failure, and/or telecommunication devices.

2. 5. When an extreme circumstance is declared by the delegated level, a member may exceed the maximum hours of work indicated in sec. 2.4 until resource replacements or relief arrive, in the following circumstances:

2. 5. 1. natural disasters, e.g. extreme weather, ice storm, tornado, earthquake, and flood;
2. 5. 2. fire; and/or
2. 5. 3. when adherence to the maximum hours of work directive could be detrimental to operations, e.g. terrorist attack, police stand-off, hostage-taking situation.

App 2-3-1- Shift Scheduling Considerations

2. Critical considerations for achieving an effective shift schedule include occupational health and safety requirements, and guidelines dealing with scheduled and unscheduled absences, appropriate coverage, training or retraining, and ensuring that the needs of members are met as much as possible.
4. 2. involve the members who will be affected by a schedule change through group interviews and presentations;

4. 3. assess how the shifts may affect the level of service to the public, member morale, overtime, and other administrative functions, and ensure shifts will not compromise the delivery of services;
 4. 4. identify member lifestyle issues, needs, and preferences through internal discussions;
 4. 9. identify fatigue hazards and other health and safety considerations and risks by consulting members involved, linking occupational health and safety guidelines and standards with operational requirements, and ensuring that proper due diligence is applied;
5. 1. shift design, e.g. fixed or rotating; length; start times; the minimization of permanent nights and sequence, i.e. only two to four night shifts in succession should be worked; and, clockwise rotation, i.e. morning/evening/night;

PART II Canada Labour Code

5. The application of Part II of the Code to RCMP members has recently been before the courts and Public Service Labour Relations Board. In *R. v. Canada (Solicitor General)*, [2000] N.S.J. No. 293 ["Canada"] (appeal dismissed by NSCA and denied leave to appeal by SCC), the court upheld the decision of a Provincial Court judge who determined that Part II of the Code did apply to RCMP members ([1999] N.S.J. No. 263).

6. The federal legislation discussed in Canada changed with the coming into force of the PSLRA in 2005. The issue was reexamined by the Public Service Labour Relations Board in *Vallée v. Treasury Board (Royal Canadian Mounted Police)*, [2007] C.P.S.L.R.B. No. 53 ["Vallée"].

7. The adjudicator held that Part II of the Code applies to members of the RCMP on occupational health and safety. Section 123(2) of the Code provides that Part II of the Code applies to the federal public administration and to persons employed in that administration to the extent provided for under Part 3 of the PSLRA. Section 240 of the PSLRA reads as follows:
Part II of the Canada Labour Code applies to and in respect of the public service and persons employed in it as if the public service were a federal work, undertaking or business referred to in that Part...

8. Section 239 of Part 3 of the PSLRA defines "public service" as that in section 11(1) of the FAA.

9. Section 11(1) of the FAA provides that "public service" means the several positions in or under portions of the federal public administration named in Schedule IV. The RCMP is named under Schedule IV.

The Canada Labour Code applies to all members of the RCMP.

Forcing members of this unit to work in excess of 160-200 hours a month, and concurrently in some cases (i.e. five shifts of 10 hours in a row), compromises these members' health and well-being. It also puts these members and their co-workers at risk and could potentially impair their ability to effectively execute their duties and responsibilities as officers of the law to the best of their ability.

Who will assume the civil liability, for example, if members forced to work this schedule leave the worksite fatigued and become involved in a collision where he / she becomes injured or injures a member of the public?

Some members of this unit are currently on Stress Leave as a direct result of the unilateral implementation of this schedule; others have become the targets of management simply because they refuse to compromise the safety and well-being of those under their supervision because of this new schedule.

We understand that a Managerial Review for this unit was conducted. Members have made us aware that, during this Review, they expressed their concerns about this unprecedented schedule change and its lack of consideration for their safety and well-being.

On behalf of the members we are representing in this grievance, here is what we are asking:

For a copy of the Managerial Review conducted for this unit.

For the unit Commander to meet with our Executives.

Work to produce a mutually acceptable working schedule that meets the needs of the public we serve while also taking into account the safety and well-being of the members of this unit.

For a formal reply to this grievance no later than Monday 25 April 2011.

The Mounted Police Professional Association of Canada represents over 2000 members nationwide. More and more members of the RCMP are coming to recognize our organization as a positive force for change in future labour relations and as a truly independent voice for members and their interests.

We thank you for taking the time to review this communication and for considering the concerns of members of the [REDACTED] that have asked us to intervene on their behalf.

We look forward to hearing from you and working toward a mutually beneficial outcome.

Rae Banwarie
VP, BCMPPA
Treasurer, MPPAC

Patrick Mehain
President, BCMPPA
VP, MPPAC

ATTACHED: [REDACTED] SCHEDULE, MARCH 2011

[REDACTED]