

Members First

The official newsletter of The Mounted Police Members' Legal Fund

Fall 2005



Don't miss the opportunity to honour our fallen Policemen and Policewomen. Take an active part in the 28th. Annual Memorial Service which will be held in Ottawa at 11:00 A.M. September 25, 2005.

It has been a long period since the publication of our last Newsletter and for that we apologize. The decision to delay was made however, not because we had nothing to do on your behalf as we have in fact been almost overwhelmed, but in the hope of concluding some matters, not only of great interest, but affecting all members of the Force. Some great progress has been made but the road to Justice, as will be evidenced by the following stories, is sometimes slow.

Ordeal for Cst. Paul Shephard, of St. John's, Newfoundland & Labrador, Ends with a Significant Victory for Force Membership

(This item was first reported in our Spring 2003 Newsletter)

We may think we are in a paperless society and perhaps we are but the pile of paper generated over this one issue stands about two (2') feet high. Too much detail to delve into every step however we offer the following brief summary of the circumstances. There was a flood of Grievances from previous exam/promotional cycles. Rather than deal with the cause of the grievances and resolve, the Force created a Commissioner's Standing Order (CSO) to prevent members accessing material to facilitate them in presenting such Grievances. This CSO referred to the issue(s) subject to dispute as an Intervention rather than a Grievance and had only one (1) level of Adjudication with no right of appeal internally. The only option open was to appeal externally to the Federal Court. The "B" Division SRR and his colleagues across Canada were opposed to the creation of the CSO and were of the opinion this was a take away from the provisions of the RCMP Act and the right of members to present a Grievance and have different levels of appeal.



In 2002 Cst. Paul Shephard an SRR Sub/ Representative, and one of the first members to submit an application to the Mounted Police Members' Legal Fund (MPMLF) in 1998, found that after being denied a promotional opportunity and filing an Intervention seeking materials to assist him in arguing that

decision or preparing for a future promotional opportunity, he was denied his right to grieve under Part III of the RCMP Act. Paul, after writing the exam in 2000, felt he needed to know which questions the Force said he got wrong so he could improve the next time around. He filed his Intervention and was denied access to relevant material pertaining to the exam. The one level Adjudicator ruled against him and his only options were to drop the matter or take the Force to Federal Court.

The first hurdle aside from funding, is to find a lawyer. In issues such as this it is not easy, as most are not familiar with the administrative procedures of the Force. It not only takes a great deal of time to process the information provided, but someone from the Force who is knowledgeable in that area must be willing to spend a portion of their free time to assist when questions arise. Paul was lucky in finding Mr. Augustine Bruce, from the St. John's firm of Benson and Myles, as a person willing to act as his counsel, however

he was cautioned that such an undertaking would be costly. Realizing this was a matter which would have a direct effect on a great number of members of the Force, and since Paul was a member of the MPMLF, the "B" Division SRR and the "B" Division MPMLF Board recommended funding assistance to, and which was subsequently approved, by the MPMLF National Executive.

At the Federal Court Trial Level, the ruling was in favour of the Force. Paul then took it to the Federal Court of Appeal and in July, 2004, the Court ruled in Paul's favour and the Force was ordered to release the material pertaining to the exam which they had deemed he had incorrectly answered. The Force then made application to the Federal Court of Appeal to have a Stay of the Order put in place until

after the writing of the February 2005 exams. While Cst. Shephard opposed the Stay, on October 5, 2004, the Court ruled in favour of the application made by the Force and ordered the following:

1. The judgement of the Court dated July, 8, 2004 is stayed until March 1, 2005.
2. The Force will, no later than March 7, 2005 provide Cst. Shephard with the particulars referred to in the Judgement.
3. The new adjudication required by the Judgement will be held as soon as possible after the particulars are provided to Cst. Shephard.

"Until I really needed it, I was paying into the Legal Fund not knowing if I would ever use it, but now that I have availed of it, I am a firm believer in the Program. I would never have

been able to tackle this problem without the Legal Fund."

*Cpl. Paul Shephard
"B" Division*

THIS COULD HAVE BEEN YOU. SEND YOUR APPLICATION FOR MEMBERSHIP IN THE MPMLF TO YOUR SRR NOW!!!!!!

DID YOU KNOW?

That over 13,000 Regular and Civilian Members of the RCMP are currently members of the Mounted Police Members' Legal Fund.

Mounted Police Members' Legal Fund Supports FLI/FIT Civilian Member Employees in Quest for Pay Equity

In March 2003 an Application for Funds in the amount of One Hundred Thousand (\$100,000.00), to commence legal action in support of pay equity, was completed by former SRR, Kevin MacDougall, on behalf of the FLI/FIT Civilian Member Employees and forwarded to the MPMLF National Executive Committee for decision. Detail to support the Application included the following: On July 30, 2002, a legal opinion was obtained from the Toronto office of Fraser Milner Casgrain, LLP on whether or not a compelling legal argument could be made against the Commissioner of the RCMP and the Treasury Board Secretariat (TBS) for not extending the full Pay Equity amounts to members of the FLI-FIT Civilian Member sub-group. This opinion outlined that there was a good case to be made for such payments and if won, it would apply to approximately 119 Civilian Members to a total of Five Million Dollars (\$5,000,000.00). After receiving the opinion, the matter was reviewed by the RCMP Pay Council who unanimously supported the payment. It was discussed with the Commissioner by his representatives on the Pay Council and his decision was that he would not be forwarding the Request for Payment to the Solicitor General for furtherance to the Treasury Board. The matter was

then taken to the Solicitor General who, in reply to the letter from the Pay Council which outlined their position, advised he was not optimistic he could overcome the views of the Secretariat. These decisions therefore meant the only way left to address the problem was through the judicial review process.

Although this issue applies to a fairly small group of Members, they are an important group, and like all Members, they rely on institutions like the MPMLF to assist in protecting their interests. The prime question faced by the MPMLF National Executive Committee was whether or not it would be fiscally responsible to pay for such a challenge. The import of the matter was not an issue; there was an approximate 50% chance of success and if successful, this group of Members would be in line to receive in excess of Forty Thousand Dollars (\$40,000.00) each. In addition, their cause had received the support of the Pay Council, a respected group of individuals with wide experience in such matters. The request received unanimous approval of the MPMLF Directors.

What then were the next steps and where are we now? (The length of the correspondence outlining various steps taken in the process

up to the present date preclude all details being presented in this format however they are available to FLI/FIT personnel who are members of the MPMLF through your local SRR or through the Secretary/Treasurer of the MPMLF, A. Gordon Clarke, 1344 de Papillon Place, Orleans, ON K4A 1Y9).

Briefly however, in April 2003 the Winnipeg firm of Fillmore Riley was chosen and agreed to conduct all services relating to the subject Application through to and including any appeal to the Federal Court of Appeal. Since that date they have been working to familiarize themselves with the issue; to obtain relevant documents; to interview affected Civilian Members; to find a Member who was willing to be named as the Applicant and appearing before various legal bodies to argue in favour of the issue. On April 7, 2003 a Notice of Application was filed, with Carole Gaudes, a Fingerprint Technician at the NPS Building, Ident/Lab Tower on Vanier Parkway, Ottawa, as the Applicant and the Attorney General of Canada and the Solicitor General of Canada as the Respondents. (The Solicitor General was later dropped as a Respondent). The Application sought declarations that the Treasury Board was required to adjust the wages and rates of pay of the FLI/FIT Group

in accordance with wage adjustments made to its comparable group in the Public Service as a result of the pay equity ruling and order made by the Canadian Human Rights Tribunal. The Application was dismissed by a Prothonotary (A position just below that of a Judge) and on an appeal made to a Judge of the Federal Court on March 7, 2005, also dismissed for the same reasons as the Prothonotary. One of the main stumbling blocks to the action has been the refusal of the Respondent to produce relevant documents and E. Beth Eva, the legal representative from Fillmore Riley, continues to believe the production of these documents will lead to a win for the FLIs/FITs. A further hearing has been set for November 15, 2005, and should the requested documents still not have been shared, she will ask the Court to draw an adverse inference from the failure of the Respondent to produce the documents. The FLI/FIT Group and the MPMLF owe a BIG THANK YOU to Carole Gaudes for taking a lead role in this action.

ASK YOURSELF THE FOLLOWING QUESTIONS. ARE YOU ONE OF THE APPROXIMATELY ONE HUNDRED NINETEEN (119) FLI/FIT EMPLOYEES OWED ABOUT FORTY THOUSAND DOLLARS (\$40,000.00) BY THE FEDERAL GOVERNMENT? ARE YOU ONE OF THE FLI/FIT EMPLOYEES WHO ARE MEMBERS OF THE MPMLF AND ARE CONTRIBUTING FUNDS TO BRING THIS MATTER TO COURT OR ARE YOU ONE OF THE FLI/FIT EMPLOYEES WHO WILL TAKE YOUR SHARE IF THE COURT ACTION IS SUCCESSFUL BUT CONTINUE TO LET YOUR COLLEAGUES BEAR THE COST OF THE LITIGATION?

DID YOU KNOW?

That the Mounted Police Members' Legal Fund receives approximately 100 new applications per month.

John Hudak, Cleared of Rape Charges, Launches Civil Action

Remember John Hudak, the Rocky Mountain House Alberta RCMP member accused of rape a few years ago. Well after a two year legal odyssey, a Justice of the Court of Queen's Bench acquitted him. In rendering its judgment, the presiding trial judge, The Honourable Mr. Justice Holmes, stated that it was his opinion that if not for the fact that Cst. Hudak was a member of the Royal Canadian Mounted Police, he would have been surprised that the matter would ever have been pursued by the Crown. The trial judge also found as a fact that the complainant had perjured herself and had manufactured false evidence in an effort to convict Cst. Hudak. There was a strong inference in Justice Holmes reasons that the RCMP and the Crown Prosecutor should have been aware that the evidence was manufactured.

In September 2002, John contacted the MPMLF and requested assistance in having Mr. Robb Beeman of the Calgary firm of Heenan Blaikie , "Examine all circumstances surrounding the charges I faced regarding sexual assault and uttering death threats. I was acquitted of both charges on February 13, 2002. Legal opinion required to determine viability of civil action against unnamed parties to date."

Approval of the MPMLF was forthcoming on the condition that any action against the regular members of the RCMP would have to be the subject of an independent retainer between Mr. Beeman and Cst. Hudak. Since the time of the approval there have been a number of findings and actions. A review of the records of the Attorney General of Canada and the Attorney General of Alberta by Mr.

Beeman revealed significant evidence of non-disclosure and evidence which, in his view, established that this prosecution was motivated by malice. In addition, there has been extensive Examinations for Discovery which showed he was prosecuted maliciously. Mr. Beeman's office was also involved in convincing the Attorney General of Canada to charge and prosecute the complainant in the case, Mildred Johnson, with perjury and manufacturing false evidence. We are pleased to advise that Ms. Johnson, the complainant, after a preliminary inquiry, waived her trial and entered a plea of guilty. We can only hope that persons contemplating such actions in the future against other members, both male and female, will take note of Ms. Johnson's fate.

This case is still before the courts and while the outcome may be favourable to Cst. Hudak, his career in the RCMP has been cut tragically short. In addition, we understand that while he has been totally exonerated with the confession and conviction of the complainant, he finds many people who were aware of the charges have not been informed of his outright acquittal and he faces unwarranted prejudice.

DID YOU KNOW?

Each year SRR Directors and the Secretary/Treasurer of the MPMLF receive many requests for assistance from Regular and Civilian Members of the RCMP who cannot be helped because they forgot to, or put off, completing an Application. Don't you forget!!!!

Breaking News!!!

Communications Strategy

In our Spring 2003 Newsletter we featured an article titled, “**Breaking News!!!Communications Strategy**” in which we announced a new Communications Agreement with our partners at Summa Strategies. This Agreement entitled, “Legislative Action Program”, has to date produced the undernoted positive results:

- I Correspondence from the MPMLF to the President of the Treasury Board; to the current Minister of Public Safety and previous Solicitors General serving as MPs in this Parliament, as well as to various Government and Opposition MPs, on Pay and Isolated Post Housing, has raised the awareness of those persons to the wishes and needs of the Force membership.
- II In April 2005 the MPMLF commissioned SES Canada Research Inc. to conduct a five (5) question public opinion survey of Canadians to ascertain their perception of the RCMP and to determine to what level of Compensation members of the Force, in their opinion, should be entitled. Between April 30th. and May 4th. 2005 SES completed a random telephone survey of 1,000 Canadians 18 years of age and older. Such a Poll is accurate 19 times out of 20.

(The following questions and comments were taken directly from the report submitted by SES Canada Research Inc. to the MPMLF and represents only a small portion of that report).

1. Does the Royal Canadian Mounted Police currently serve the community in which you live?
2. Would you say you have a very positive, somewhat positive, neutral, somewhat negative or very negative impression of the men and women who make up the RCMP?
3. Thinking about the men and women who make up the RCMP, would you say the services they provide are very valuable, somewhat valuable, not very valuable, or not at all valuable?
4. Thinking about the pay scale for RCMP officers, do you believe that the compensation should be above, the same or below the major police forces in Canada?
5. I am going to read a list of three ways in which RCMP officer compensation can be determined. I would like you to tell me which option, if any, would you prefer? Average of major police forces in Canada? Average of the top three paying forces in Canada? Equal to top paying force in Canada?

SES Research’s national telephone survey of 1,000 Canadians revealed that Canadians have very favourable views of the men and women who make up the RCMP. Survey research also indicates that Canadians clearly want the men and women who make up the RCMP to be compensated at a level at or above Canada’s leading police forces.

Copies of the Poll results were forwarded by the MPMLF to most of the serving MPs as well as the RCMP Pay Council. In addition to receiving many favourable comments from those MPs with requests to be supplied with further information on matters affecting members of the RCMP, we consider this document will be an important addition to the material being gathered to support the ongoing and future pay negotiations.

- III Most of you will be familiar with the proposed Whistleblower Legislation, Bill C-11 and by now have probably read the June 29, 2005 Media Release from Leon Benoit, MP Vegreville-Wainwright (AB), the chair of the Government Operations & Estimates Committee, announcing, “Canadians hard-earned tax dollars will be better protected as public servants and members of the RCMP will be able to report acts of wrongdoing and malfeasance without fear of reprisal due to this groundbreaking whistleblower legislation.”

What you are probably not aware of is the part played by Summa Strategies in arranging for members of the MPMLF to appear before the Committee in support of the RCMP Member inclusion. ***These members, accused whistleblower Robert Read, previously of “A” Division, and former SRR, Brian Flanagan of “H” Division, deserve our congratulations and thanks for their excellent and apparently convincing input.***

Has the Proposed Whistleblower Legislation Come Too Late for our Colleague Robert Read?

Press report dated January 17, 2002, "An RCMP officer is fighting to keep his job after blowing the whistle on alleged corruption at the Canadian mission in Hong Kong in the early 1990s. Robert Read is facing an RCMP adjudication board in Ottawa that began hearings on Monday. Read said he was acting in the interest of Canadians when he went public with allegations that Canada's mission in Hong Kong was selling phoney visas to the highest bidders. He says his preliminary investigation uncovered evidence of a problem that he believed could compromise the country's immigration system. According to Read, his superiors ignored his information. 'I went on stress leave over this situation and finally I became stressed to the point where I went public with my allegations in 1999. Read was suspended with pay by the RCMP shortly after he went public. Another officer, Sergio Passen, took over the investigation and ultimately concluded that Read's allegations were baseless. But under cross-examination Wednesday, Passen admitted he did not interview a key witness until after he finished his final report. Reid's lawyer says proper procedures were not followed. Brian Radford, lawyer for the RCMP, won't comment on the testimony. 'There are some policy reasons that justify the actions that the RCMP has taken against Corporal Read and the reason why we're having these matters adjudicated before a board.' The RCMP does insist it had every right to suspend an officer for what the force calls 'disgraceful behaviour.' The hearing is expected to last another week, after which the board will decide whether Read should be fired."

An RCMP Internal Adjudication Board found Corporal Read in breach of the Code of Conduct, which forms part of the RCMP Regulations, and sanctioned him by dismissing him from the Force. It was of the view that the whistle-blower defence did not apply. He appealed to the Commissioner. En route however, the matter was considered by an External Review Committee. It recommended that Cpl. Read's appeal be maintained. His disclosures were a matter of legitimate public

concern because for seven years the RCMP failed to take appropriate action to determine if employees at the Mission in Hong Kong had engaged in immigration fraud.

RCMP Commissioner Zaccardelli did not hear the appeal because of his prior involvement in the case. The appeal was heard by Assistant Commissioner Tom Killam, the next most senior officer who had not prior personal involvement in the matter. Assistant Commissioner Killam did not agree with the recommendation of the External Review Committee. He accepted the findings of the Board and thought the External Review Committee had engaged in re-weighing the evidence. His view of the whistle-blower defence differed from both that of the Board and that of the External Review Committee. He found, however, that the defence did not apply, agreed with the Board that Cpl. Read had been in breach of the Code of Conduct, and upheld the sanction of dismissal.

The negative connotations of such a decision to the membership of the RCMP was paramount in the MPMLF committing to assist Robert when he requested aid in March 2001. It was obvious he had to take a further step to achieve the justice he was seeking. Since it had long ago been decided that a decision or order of the Commissioner of the RCMP is subject to judicial review by the Federal Court, that next step was for Cpl. Read to take the matter to the Federal Court Trial Division by way of judicial review. The issue to be reviewed was not so much whether he was justified in his decision to go public as it was whether Assistant Commissioner Killam was justified in holding that he was not. The Court would be asked to consider the legal basis of a judicial review of a decision of the Commissioner of the RCMP and the standard of that review.

The finding of the Federal Court Trial Division was issued on June 2, 2005. "The decision of Asst. Commissioner Killam that Cpl. Read breached the RCMP Code of Ethics stands up to judicial review, as does the sanction that he be dismissed from the Force." In

addition Cpl. Read was assessed costs. A stunning and unexpected blow in view of the high profile given to the protection of whistleblowers by the Federal Government.

Strike two but not yet out, there is a further step in the legal process, an appeal to the Federal Court Appeal Division. In a position letter to the MPMLF on June 27, 2005, Robert's lawyer, Mr. David Yazbeck, of the Ottawa firm Raven, Allen, Cameron, Ballantyne and Yazbeck, in reporting an extensive list of issues that were not taken into consideration by the Federal Court Trial Judge has stated. "In our view, these are serious issues and, therefore, it is important for the Federal Court of Appeal to consider this case. Needless to say, the resolution of these issues will have a significant and wide-reaching impact on the activities of all RCMP officers, as well as other police officers and public service employees across the country. In short, this case is extremely important."

The MPMLF National Executive Committee continues to agree and have approved the further assistance required. Good luck Robert.

DID YOU KNOW?

That in Divisions "A", "C", "N", "O" and "S" only an average of 37% of Regular and Civilian Members are members of the Mounted Police Members' Legal Fund. Are members in these Divisions not affected by the issues that affect the rest of the Force? I think they are, so what is the matter? In the remainder of the Divisions an average of 88% of Regular and Civilian Members are members of the Mounted Police Members' Legal Fund.

A Moving Experience

Others have found themselves in situations similar to the following and it could happen to you. Do not be left on your own. Join the Mounted Police Members' Legal Fund now!!!!

On 2003-03-27 as a result of a RCMP transfer, my personal effects were shipped from Weyburn, Sask to Regina, Sask via commercial moving company. I was present during the packing and loading of my belongings and personally witnessed one of the moving company employees damage a patio table. The employees were also observed to be very rough when loading and storing the furniture in the semi trailer. On 2003-03-31 my belongings were unloaded at my residence in Regina. I was unable to check everything as it was unloaded at my new residence. I was required to sign for my belongings which was done. About three weeks later I unpacked my belongings and set up furniture. (My house was not completely built when the belongings were unloaded.) I found our treadmill broken and a large scratch was present on the table top of our Oak table. The scratch on the table was observed by an employee from the moving company who had returned to help with unloading. (He later denied seeing the damage) Damages resulting from the move were: Oak Table repair - \$500.00, Patio Table replacement - \$40.00, and Treadmill repair - \$20.00.

I contacted the Moving Company Insurance Company who were extremely arrogant upon my filing of a claim. They indicated that I signed the Bill of Lading and never indicated any damage. They refused to pay for any damages as the Moving Company Carrier employees denied doing any damage. After approximately 6 months of correspondence

back and forth between the Insurance Company, the Moving Company and myself it was evident that the Insurance Company would not change its mind. I forwarded correspondence to the RCMP relocation coordinator in Regina with my concerns and never received any acknowledgment back.

I contacted the "F" Division SSR who forwarded my request for help to Mounted Police Members' Legal Fund. I clearly explained my problem and requested assistance in suing the Moving Company. My application for assistance was approved. A lawyer was arranged and a lawsuit filed after the Moving Company- Insurance Company refused to settle. Interesting precedence was attempted if the suit went to trial. The lawsuit against the Moving Company- Insurance Company was for the full amount of their bill referring to breach of contract. On 2005-04-16 I was contacted by my lawyer who indicated that the Insurance Company wanted to settle and I agreed. The amount sued for (Actual damage around \$700) plus small punitive amount was agreed to. Although I have not received any funds yet I believe the cheque is in the mail.

Without the assistance of the Legal Fund it would not have been feasible for me to hire and sue the Moving Company. The Insurance Company knew the amount being sued for was minimal and counted on me to back off. This case is a prime example why everyone should be a member of the Legal Fund. They offered me assistance while my employer the RCMP, who transferred me, never even acknowledged my plight.

*Gregory GROFF,
Punnichy Detachment*



APPLICATION FOR MEMBERSHIP TO THE MOUNTED POLICE MEMBERS' LEGAL FUND

THE MOUNTED POLICE MEMBERS' LEGAL FUND IS ADMINISTERED BY THE NATIONAL SSR CAUCUS

THE 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 LEGAL FUND, solely supported by the membership of the RCMP, will fulfill that need.

Your Division Representatives and Committee of Sub/Representatives, will have the ability to challenge many of the problems facing us in the performance of our duties.

MEMBER Complete and mail to your Staff Relations Representative (SRR).

Name (Print)

(Detachment, section, unit, squad, etc.)

Division _____ Regimental# _____
Collator Code _____ Hermis# _____

I hereby authorize a payroll deduction from my pay in the amount of \$2.00 bi-weekly and authorize transfer of those funds to the Mounted Police Members' Legal Fund.

Signature _____

Date _____

In November 2001, Sgt. Lynda Kerr and S/Sgt. Harold Milroy of Athabasca, Alberta, were involved in the execution of a search warrant where two individuals were arrested on drug charges. Those individuals were represented by Mr. Jonusz Kozina, a lawyer from Lac La Biche, Alberta, who wrote to a Federal Crown prosecutor making a series of scandalous accusations against Kerr. Subsequently, Mr. Kozina repeated the accusations in other letters to the Clerk of the Court. The Mounted Police Members' Legal Fund were requested to assist in filing a complaint to the Law Society against Mr. Kozina, and that request was approved.

The nature of our complaint was that Mr. Kozina's actions were unprofessional and deserving of sanction. We were recently advised by the Law Society that Mr. Kozina was fined \$5,000 after admitting he had wrongly accused Kerr of lying. We also understand that the Disciplinary Panel indicated that Mr. Kozina's conduct would normally warrant a suspension if he had not admitted wrongdoing.

Following is a copy of an article that appeared in the Canadian Lawyer Magazine. This magazine is distributed to all practicing lawyers and judges in Canada and it is our belief that the complaint filed by our members and the subsequent publicity have been and will continue to be significant factors in the way our members are treated by the judiciary.

Lawyer apologizes for wrongly accusing Mountie

"The trial of the accused is a sideshow. The trial of the investigators is the main event." Those words are displayed on the desk of RCMP Sergeant Lynda Kerr of Athabasca, Alta., who says she is satisfied that lawyer Jonusz Kozina has been fined \$5,000 by the Law Society of Alberta after admitting he had wrongly accused Kerr of lying.

The case dates back to November 2001, when Kerr, with a search warrant, entered a house and arrested two people on drug charges. They were represented by Kozina, a lawyer from Lac La Biche, who wrote to a federal Crown prosecutor on January 23, 2002, claiming that Kerr had sworn a false affidavit and had "misled the justice of the peace." The

following day, Kozina repeated the accusation in another letter to the court clerk in St. Albert and Athabasca RCMP.

Kerr's detachment commander at the time, Sergeant Harold Milroy, replied to the letter, asking if Kozina was filing a formal complaint and suggesting the letter was defamatory. A lawyer for Kozina wrote back to Milroy: "We are informed that this is your attempt to cover up a false affidavit made by a member of your detachment."

Kerr said Kozina also left messages on her answering machine telling her to take a stress leave, which she described as harassment and an attempt to intimidate her.

"If his allegations were believed, I would have been without a career," Kerr later told the *Edmonton Journal*. "We expect to be attacked by evidence, but to be attacked personally is not justice. I thought my career was over."

Following unsuccessful attempts to resolve the issues, Milroy and Kerr complained to the Law Society, which duly contacted Kozina. In October 2002, he apologized to the society, explaining that he had let his friendship with the accused cloud his judgment.

At a hearing this past June, a three-member panel of the Law Society decided Kozina's conduct in this manner would have warranted a suspension if he had not admitted wrongdoing. Instead, the panel levied a fine of \$5,000, noting that this was his first reprimand in 29 years of practice.

On the day the hearing began, Kozina approached Kerr and told her he was sorry.

RCMP Member, Michael Ferguson, Convicted of Manslaughter

By now all of you are familiar with the circumstances of this case and the career ending tragedy which occurred while this former "K" Division member was carrying out his regular police duties. Above we have recreated the headline of the following Breaking News Brief featured on our Web Site www.mplegal-fund.com on March 1, 2005. Our news article read, "Terrible headlines to each of us who, like Michael, face similar situations on a daily basis. The conviction of Michael Ferguson for manslaughter has been viewed with disbelief and concern for his and our future. Michael

has filed a 'Conviction Appeal' which, through a unanimous vote of the Directors, is being supported by the Mounted Police Members' Legal Fund."

It should be noted that the Crown has appealed Michael's sentence, which was a conditional one of two years less one day. Mr. Noel C. O'Brien, Q.C. of the Calgary firm of O'Brien, Mevlin, Markey and MacLeod is handling the case for Michael and has, in a seven (7) page submission to the MPMLF, outlined the reasons why the appeal of the sentence by the

Crown should fail and the appeal by Michael of the conviction should succeed. This matter is ongoing and results when known will be posted on the MPMLF Web Site.

DID YOU KNOW?

That at the printing of this Newsletter the MPMLF are investigating approximately twenty (20) issues, raised by members of the MPMLF in various Divisions, that have direct impact on all members of the RCMP.

Mounted Police Members' Legal Fund Bylaws Updated to Reflect the National Inclusiveness of all Members of the RCMP

The originators of the MPMLF in 1996 and 1997 initially planned for One Fund which would encompass all of the issues brought before it by Regular and Civilian Members of the RCMP. This plan was however opposed by many of the SRRs on the grounds that some propositions would be obviously National in scope while many would probably be peculiar to a particular Division and that Division should be responsible for the cost of bringing the matter to a resolution. Good thinking at the time but experience has taught us that we cannot isolate problems to a specific Division. We are all members of the same Force, linked by uniform Rules and Regulations and Policies and Procedures. Carrying out policing duties of, Intelligence, Enforcement, Investigation, Protection, Prevention and Education across Canada and indeed in many other parts of the world. What affects one, affects all. In addition, issues raised within smaller Divisions could be passed over because of insufficient funds.

This past year, with the assistance of the Consulting Firm of Graham Leslie and Associates, we undertook an extensive review of the Bylaws with specific focus on the viability of maintaining funding exclusively for National and/or Divisional issues. Mr. Leslie's recommendations were for the amalgamation of the funds identified for National and/or Divisional issues to formally create One Fund and for changes to the request for assistance procedures to ensure all Divisions received similar and equitable treatment. The new process continues to call for full participation of a Division Board in the assessment of emerging issues. To illustrate, we have provided the specific Bylaws hereunder:

13.01 NUMBER AND APPOINTMENT.

There shall be an Applications Review Committee with respect to each application submitted under section 11.03 (*Section 11.03 - Each Division Board will be responsible for receiving and considering requests for funds from members in its Division. If approved by the Division Board, the Division Board shall forward the request to the Secretary of the Legal Fund for consideration by the Applications Review Committee*) comprised as follows:

- a) one (1) member appointed by the Executive Committee from among its members;
- b) two (2) directors appointed by the Board, excluding any director then serving on the Executive Committee; and
- c) one (1) member of the Legal Fund appointed by those directors who are Representatives or Subrepresentatives of the Division from which the application originates.

13.02 DUTIES. The Applications Review Committee shall receive and assess all applications for funding referred to it by a Division Board and shall forward the Committee's recommendation regarding the application, together with a cost/benefit analysis to the Secretary of the Legal Fund for referral to the Executive Committee.

13.03 REFERRAL TO THE EXECUTIVE COMMITTEE.

The Secretary of the Legal Fund shall refer all applications and recommendations received from the Applications Review Committee to the Executive Committee for review and consideration.

The Executive Committee may:

- a) approve the application in full;

b) approve the application in part; or

c) deny the application

and the decision of the Executive Committee, together with written reasons therefore shall be given to the Applications Review Committee. The decision of the Executive Committee shall be final and binding and not subject to review.

These recommendations were unanimously approved by the Directors of the MPMLF on June 12, 2005 and the Revised Bylaws are now with our lawyer for passage through the governmental approval process. Current Bylaws can be found on our Web Site www.mplegalfund.com. The revised set will be posted once it has been received later this fall.