



Canadian Police Association 2019 Legislative Conference

OVERVIEW

The Canadian Police Association (CPA) is an umbrella organization that represents over 60,000 civilian and sworn front-line law enforcement professionals from across Canada. Our members serve every municipal and provincial police service, First Nations police agencies, the Canadian National and Canadian Pacific Railway police, and we look forward to including personnel from the Royal Canadian Mounted Police as they certify their own, independent association,

On behalf of our members, we work in a non-partisan fashion with Members of Parliament from all political parties to advocate for policies that promote public safety while improving the health and safety of those who serve their communities. Our members regularly appear before Parliamentary Committees to offer expert testimony during the consideration of legislation, and are always available to facilitate meetings with Parliamentarians in their home ridings to provide a local policing perspective on important issues.

Over the course of the 42nd Parliament, we have been proud to work with Parliamentarians on a number of key issues, including the recently implemented regime to legalize marijuana for recreational use and the adoption of a national strategy to address the unique mental health challenges faced by our country's first responders. We appreciate that Members of the House of Commons and Senate, from all parties, have worked with Canada's public police professionals to ensure that the public safety of our communities is a key consideration during the policy development process, and we look forward to continuing that engagement.

Professional policing in Canada remains a constantly evolving sector, as our members are constantly asked to do more with less, even as our members are continuing the process of adapting to radically new technological realities. From ongoing discussions around the widespread introduction of body-worn video, to new methods of investigating crime in a digital age, and the recent emphasis on the privacy rights of Canadians, the job of a police officer has never required more training and professionalism than it does today.

In addition to all of these factors, it should also be noted that policing in Canada is, appropriately, the profession subject to the most regulation and oversight possible. Our members know, and expect, that the split-second decisions they make will be scrutinized by both the public, and by the independent agencies established to ensure Canadians continue to trust those who police their communities.

There's no doubt that the cost of policing will continue to be debated, but there should also be no question that our members provide tremendous value to their communities, and that value goes beyond just dollars and cents. Police personnel, from those on patrol, to those that work behind the scenes, are committed to service. They're your sons' and daughters' hockey coaches, they're raising money for charities across Canada and they're always active participants when it comes to community development.

As Members of Parliament, we appreciate the work you've all done over the course of this 42nd Parliament. Canadians have benefited from the leadership you've shown as elected officials, and we are fortunate as a society to have strong local representation across the country. The need to protect our communities with evidence-based strategies supported by professional public policing is the ultimate non-partisan goal. Thank you for taking the time to meet with us, but also don't hesitate to reach out to us in Ottawa through our National Office, or just as importantly, back home in your ridings any time you might need to discuss public safety issues, particularly as we approach a general election scheduled for this fall, or if you have specific concerns or questions you might like us to address.

OUR ISSUES

Employment Insurance for Police personnel on Parental Leave

The Issue

Police officers on parental leave are frequently and routinely subpoenaed during that leave to testify in criminal matters stemming from prior police duties. The practice of numerous police services in those instances was to have the day of the court appearance added to the end of the parental leave, extending it by the amount of time lost for the officer to prepare for and attend court as required.

A few years ago Employment Insurance (EI) conducted an examination of this practice and essentially concluded it was a contravention of the EI provisions with respect to applicable earnings. Even though the compensation was provided in time only to make up for the leave lost, EI took the position that it amounted to additional employer provided earnings which were then subject to claw back from the EI payments as income.

Therefore if the member claims the court appearance in time compensation from the Police Service employer, it is considered as applicable earnings and deducted from his/her EI parental leave benefit. There is no longer any ability to provide additional time at the termination of the parental leave for police officers in recognition of the time lost to court appearance. Essentially the officers appear in court, lose days off their parental leave which cannot be recouped.

The Solution

The CPA would like to propose an amendment to the Act and/or regulations governing Employment Insurance to ensure that if a police officer on parental leave is subpoenaed to court as a result of prior police duties, that any compensatory time provided in recognition of that not be unnecessarily clawed back by EI.

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This amendment would at least provide a reasonable opportunity for our colleagues to recoup the time lost with their families and also recognizes the unique challenges that they face trying to balance their obligations as police officers against those new challenges they face as parents; a time that most other Canadians enjoy unfettered by their employment obligations.

This issue is particularly important for our association, given the rapidly changing demographics of the police profession. As our members get younger, more diverse, and seek to appropriately balance the demands of their employment, with the demands of their new families, we note that this small change will have a massive impact on those who are helping to ensure that local police services appropriately reflect the communities they serve.

Parole Reform Targeting Repeat and High-Risk Offenders

The Issue

The Canadian criminal justice system is a complex and interconnected process where action, or inaction, in one area can have unintended and negative consequences in another. The need to effectively target repeat offenders is significant because, as front line law enforcement officers know all too well, a defining reality of our justice system is that a disproportionately small number of offenders are responsible for a disproportionately large number of offences. Operationally targeting such offenders produces positive public safety results and the same is true of targeted legislation and policy.

It is in that context that the Canadian Police Association continues to propose the creation of statutory consequences for offenders who commit new offences while on conditional release and to replace the entitlement of statutory release with discretionary parole. These amendments are proposed in the belief that early release from a court imposed sentence should be a privilege to be earned and not a right to be demanded.

The Solution

- **Create the Offence of breaching conditional release:** It is critically important that there be an accurate record kept with respect to an offender's breach of conditions while on early release so that any future justice system decisions take into account such conduct. This reality is reflected in the creation of a separate criminal offence of breaching the conditions of bail or probation yet, inexplicably, breaching the conditions of parole is *not* a criminal offence.
- **Require reporting of breach of conditional release by supervising authorities:** After the fact examination of crimes committed by repeat offenders such as Albert Foulston, demonstrate that breaches of conditional release by offenders are not always reported to the Parole Board of Canada which means its authority to suspend or revoke early release is neutered. Creating an obligation on a supervising entity, which includes offender advocate groups as well as Correctional Service Canada (CSC), would resolve this deficiency and enhance offender and institutional accountability.

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Mandatory minimum sentences

The Issue

Police officers are, appropriately, subject to the most rigorous oversight regime of any profession in Canada, and while incidences involving use-of-force are extremely rare (less than 1% of interactions, according to Canadian statistics), there are occasionally cases where police personnel have been held accountable for what the courts have deemed unlawful uses-of-force.

Sections 220 and 236 of the Criminal Code of Canada provide for mandatory minimum sentences of four years when an individual is convicted of manslaughter or criminal negligence causing death, where a firearm has been used in the commission of the offence. While the original goal of these minimum sentences was to act as a deterrent with respect to the proliferation of firearms, unfortunately these minimum sentences fail to take into account the unique nature of the duties of police personnel, who are required to carry a firearm as part of their regulation uniform, and can deploy that firearm as part of the recognized use-of-force continuum.

Because police officers are expected, in the course of their duties, to intervene in numerous operations where the risk of physical and psychological harm is present, both for the officers themselves, and the public in general, we believe it is important to draft a sentencing framework that allows judges to have the discretion necessary during sentencing, to recognize the unique circumstances faced by police personnel, particularly with respect to firearms. These incidents are dynamic and unfold quickly requiring officers to make split second decisions where even a momentary lapse of judgment could mean the difference between a successful intervention and one subject to review.

The Solution

The CPA asks Parliament to consider drafting a new sentencing framework with respect to Sections 220 and 236 of the Criminal Code of Canada to recognize that police personnel are authorized, and at times required, to use their firearms in the course of their duties, and to exempt officers from the mandatory minimum sentences prescribed in the current Criminal Code of Canada, giving the judiciary the discretion to recognize that even in circumstances where police officers are being held accountable, that the officers themselves may have been acting in good faith as they discharged their duties.

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