



**Royal Canadian Mounted Police
Sgt. Dave Smith
Police/ Labour Communications for B.C.
105 – 14200 Green Timbers Way,
Surrey, BC
V3T 6P3**

Date: 2016-01-20

Re: Passive Leafleting and Organizing

Hello,

Thank-you for your inquiry. I can clarify your concerns on how organized labour unions can best interact with police during complaints about passive leafleting and organizing campaigns.

When the police become aware of a labour dispute, they are an impartial party but not necessarily a neutral party. Police understand that the “Canadian Charter of Rights and Freedoms” underscores the right of individuals to peacefully express their opinions, views, and to speak out on the issues. Protesting by labour groups and trade unions has long been recognized as a protected form of expression. The police will uphold this right and acknowledge that the police have a duty and responsibility to protect the right of Canadians to voice their opinions on the issues. At the same time, police will ensure public peace and safety for all parties, and respect for the rights of private property owners.

The police will strive at all times to balance the need to maintain civil order and the democratic right to hold demonstrations. Police officers will assess each situation on its’ individual merits. The police will take into consideration the circumstances as they exist and a reasonable assessment based on relevant case law. This includes the Supreme Court of Canada decision in UFCW Local 1518 v. Kmart Canada, (1992) 2 S.C.R. 1083 (passive leafleting) and section 66 of BC’s Labour Relations Code.

I recommend that union organizers notify their local police force or this office before engaging in passive leafleting on or near private property. This will open the communication lines with the police. I can be reached at the below noted telephone number.

Respectfully
Sgt. Dave Smith, Sgt.
Royal Canadian Mounted Police
604 828-3573

Canadian Charter of Rights and Freedoms

Whereas Canada is founded upon principles that recognize the supremacy of God and the rule of law:
Guarantee the rights and freedoms.

Rights and freedoms in Canada

The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

Fundamental Freedoms

Everyone has the following fundamental freedoms:

- (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;
- (c) freedom of peaceful assembly; and
- (d) freedom of association.

Freedom of association

Freedom of association is guaranteed under section 2(d). This right provides individuals the right to establish, belong to and maintain to any sort of organization. Generally, this is used in the **labour** context where employees are given the right to associate with certain **unions** or other similar group to represent their interests in labour disputes or negotiations.

BC Labour Relations Code

66 No action or proceeding may be brought for

- (a) petty trespass to land to which a member of the public ordinarily has access,
- (b) interference with contractual relations, or
- (c) interference with the trade, business or employment of another person resulting in a reduction in trade or business, impairment of business opportunity or other economic loss arising out of strikes, lockouts or picketing permitted under this Code or attempts to persuade employees to join a trade union made at or near but outside entrances and exits to an employer's workplace.

Canada Labour Code (R.S.C., 1985, c. L-2)

Unfair Practices

Marginal note: Employer interference in trade union

94 (1) No employer or person acting on behalf of an employer shall

- (a) participate in or interfere with the formation or administration of a trade union or the representation of employees by a trade union; or

United Food and Commercial Workers, Local 1518 (U.F.C.W.) v. KMart Canada Ltd.

[1999] 2 The Supreme Court of Canada's decision S.C.R. 1083 - Passive Leafletting [1999] S.C.J. No. 44 File No.: 26209.

The importance of work for individuals has been consistently recognized and stressed. A person's employment [page1085] is an essential component of his or her sense of identity, self-worth and emotional well-being. As well, the vulnerability of individual employees, particularly retail workers, and their inherent inequality in their relationship with management has been recognized. It follows that workers, particularly those who are vulnerable, must be able to speak freely on matters that relate to their working conditions. The fundamental freedom to speak about matters that relate to working conditions is explicitly recognized in s. 64 of the Labour Relations Code, which provides that a trade union and its members are free to communicate information to the public with regard to a labour dispute, except in a manner which may constitute picketing. The distribution and circulation of leaflets has for centuries been recognized as an effective and economical method of both providing information and assisting rational persuasion.