



National Defence / Défense nationale

MINUTE SHEET / NOTE DE SERVICE

SECURITY CLASSIFICATION - COTE DE SÉCURITÉ

FILE NO. - N° DE DOSSIER

1745-42-7

TD - D.T.

DATED - DATÉE

SUBJECT - SUJET

Homosexuality

REFERRED TO / TRANSMISE À

REMARKS - REMARQUES
(TO BE SIGNED IN FULL SHOWING APPOINTMENT, TELEPHONE NUMBER AND DATE)
(ATTACHE DE SIGNATURE, FONCTION, NUMÉRO DE TÉLÉPHONE ET DATE)

DGPCOR

Ref: A - 1460-45-3 (ADM(Per)) 24 Feb 86
B - 1460-45-3 (CPCSA) 27 Feb 86

1. While the draft CFAO on homosexuality clearly states the policy of the Canadian Forces and the actions to be taken to effect that policy, I have reservations that it would meet the test of a Court of Law under Section one of the Charter. While Section 15 of the Charter prohibits all forms of discrimination, Section 1 gives you a defence. Any limitation in employment must be "a reasonable limit prescribed by law as can be demonstrably justified in a free and democratic society". To meet this test in a Court, I feel some rationale behind the policy is required.

2. Ref A, commented on by Ref B, proposed two new CFAOs concerning employment in the Canadian Forces. The first new draft CFAO, now numbered 49-14, is entitled Employment Policy within the Canadian Forces. It states mainly that to be employed in the CF, any member must be able to contribute effectively to operational effectiveness of the CF. It was intended that this CFAO would be an umbrella, from which any CFAO limiting employment would emanate. As such, it should be cross referred to in your CFAO.

... /2

DND 317 (JUN 74)
7530-21-870-6223

②

Charter
Thanks. We're on hold, I guess.

3 Mar 86

Mussen

*SAC
PA
42-7
K*

000468



National Defence / Défense nationale

MINUTE SHEET
NOTE DE SERVICE

SECURITY CLASSIFICATION - COTE DE SÉCURITÉ

FILE NO. - N° DE DOSSIER

TD - D.T.

SUBJECT - SUJET

Homosexuality - 2 -

DATED - DATÉE

REFERRED TO
TRANSMISE À

REMARKS - REMARQUES
(TO BE SIGNED IN FULL SHOWING APPOINTMENT, TELEPHONE NUMBER AND DATE)
(ATTACHÉ DE SIGNATURE, FONCTION, NUMÉRO DE TÉLÉPHONE ET DATE)

3. After cross reference to the new CFAO 49-14, I also feel to pass the test of Section one-a short second paragraph should be added to your policy statement, briefly outlining the rationale behind the policy. The following was paraphrased from the new CFAO on employment in mixed-gender units and is a suggestion:

"The preservation of a high standard of morale and cohesion is essential to the maintenance of the effective operational capability of the CF. Experience and expert opinion have shown with reasonable certainty that cohesion and morale and hence operational capability would be reduced to an unacceptable degree should homosexuals be employed within the CF."

4. Perhaps JAG will confirm or refute this opinion.

M.K. Kee
Col
D Charter
995-0014

DND 317 (JUN 74)
7530-21-870-6223

000469