

M E M O R A N D U M

23 May 57.

DPA/PA2

AFAOs 34.00/46 and C34.00/02

1 Reference is made to your memo of even file dated 26 Apr 57 with which were attached re-drafted orders on homosexuality and gross indecency.

2 These orders have been reviewed and our comments together with suggested amendments follow:

AFAO 34.00/46

3 Para (1). It is felt that the specific sections of the Criminal Code should be quoted. Further, because of previous "prohibitions" to AFP investigation it should be emphasized that these cases should, in common with other serious matters, be investigated immediately. It is recommended therefore that para (1) be deleted in its entirety and the following substituted:

"(1) Certain homosexual acts and grossly indecent acts are offences against the Criminal Code of Canada. These particular offences are set forth in sections 147, 148 and 149 of the Code. When it appears that such a criminal offence has been committed, normal Air Force Police investigative action will be taken without delay."

4 The remainder of the AFAO is satisfactory.

AFAO C34.00/02

5 Paras 1, 2 and 3 are satisfactory.

6 Para 4. Participation of the security personnel should not be at the discretion of the SMO but should rest with the CO. If a female paraphiliac has committed no crime, then her case is a psychiatric problem to be handled solely by the SMO. However, if crime is involved, the criminal aspect of the case is a police problem and the psychiatric aspect of the same case is a medical problem with both aspects handled on a co-operative basis.

woman only.

7 Para 5. Sub-para (a) and (b) are inconsistent. Sub-para (a) is discretionary and sub-para (b) is mandatory, yet both cover the same point, i.e. juvenile sexual deviation. Sub-para (a) is open to the concealment of crime as it now stands. In the interest of public morals and safety both cases must be referred to the proper authorities. The Service would be subject to severe and justified criticism if such a matter were concealed, even with the best of intentions, from the civilian authorities. The intent of sub-para (d) is not understood. In effect this prohibits disciplinary action in regard to offences against the statutes of the country; as such you will agree that sub-para (d) is invalid.

woman only.

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*such investigations
must not be
hand of RFP*

*always
discretionary
in C.O.*

8 Para 6. This para is contrary to the intent of AFAO 34.00/46. It is undesirable that the police should act "under the direction of the SMO". The SMO has no right to assume directional prerogatives in a criminal matter.

9 Para 7. Sub-para (b) is similar to sub-para 5 (d). If an offence against the Criminal Code has been committed, disciplinary action should not be discretionary beyond the point of deciding whether there is sufficient evidence to justify proceedings.

10 Paras 8 to 13 are satisfactory.

11 As previously discussed, the problem is one of whether or not there has been a criminal offence rather than whether the person involved happens to be a male or female. With this in mind we have attempted to assist by drafting the order under the following headings:

- (a) Caption amended to read: "Homosexuality and Gross Indecency - Investigation, Psychiatric Examination and Disposition.
- (b) General
- (c) Acts of a Criminal Nature
- (d) Acts of a Non-Criminal Nature.

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Attach: