

CONFIDENTIAL 04
C871-34.00/02 (DPA)

MEMORANDUM

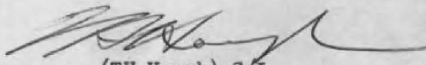
27 May 57



DAFS/AFS 3

AFAOs 34.00/46 and C34.00/02

- 1 Reference is made to your memo of even file dated 23 May 57.
- 2 Your para 3 is concurred in.
- 3 Reference your para 4, there is no reported case of a female ever having been charged, let alone convicted, of an offence under sections 147, 148 and 149; as a matter of fact it is impossible to charge a woman under either 147 or 148. Under the earlier code, of course, no offence could have been charged at all even under the then counterpart of section 149. To my knowledge there has never been nor could there have been a conviction against a female at common law of an offence of this nature; there has been only one conviction, in England, under criminal legislation somewhat similar to ours, and that under the most unusual circumstances.
- 4 In view of the foregoing it is considered that criminal action in respect to females is almost purely academic. The provision of the draft AFAO relating to calling in security personnel is not to facilitate obtaining information for purposes of prosecution.
- 5 Reference your para 7. As you are aware, para 5 of the draft also refers to females; consequently the reasoning set out in the foregoing para is applicable. The subparagraphs referred to merely distinguish, from a policy viewpoint, between civilians who are dependents and those who are not. Subpara (d) should read "should" rather than "shall". Although a sexual offence is academic, there may be accompanying circumstances to justify laying of purely Service charges, e.g. conduct to the prejudice.
- 6 The provision complained of was inserted by direction of AMP. These cases are as much medical as criminal in nature, and police investigation should be of a nature consonant with the medical or psychiatric condition of the person examined.
- 7 Reference your para 9, the taking of disciplinary action is discretionary with the CO. Countless circumstances could be recounted where the technical requirements of an offence have been satisfied but where charges have not been proceeded with.


(TH Hough) S/L
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