

M E M O R A N D U M

HQC 3040-5 TD 7169 (Adm 2A1)

OTTAWA, 28 Jun 57

D Adm

Sexual Offences
Disciplinary Action

1 Reference is made to Headquarters Western Command statement of interim policy on the matter of sexual offences.

2 It would appear that this statement is based on a misapprehension of this Headquarters' views on this matter. There is nothing in HQC 3040-5 (Org 1) dated 1 Dec 55, dealing with release of individuals affected with homosexual proclivities which could be regarded as an indication that this type of offences generally should not be prosecuted. Neither is there anything in the correspondence exchanged with HQ Western Command on recent cases which could be construed in that manner.

3 Homosexual practices and gross indecency are criminal offences and it would be contrary to public policy to take the view in an Army statement of policy that such offences should not be prosecuted. There may be reasons for not prosecuting in certain cases. These reasons could fall into four main categories;

- (a) where evidence is not sufficient to obtain a conviction;
- (b) where the sexual aberrations are of such a nature as to justify a release on medical grounds;
- (c) where the scandal caused by trial would clearly overshadow any advantage gained by prosecution;
- (d) where the civil authorities decline to prosecute.

4 The procedure outlined by Headquarters Western Command for the investigation of these occurrences appears unduly complicated. It is suggested that as soon as a commanding officer is informed that a sexual offence has been committed or is suspected, he should immediately order an investigation in the normal manner and notify the Area Commander or the General Officer Commanding the Command. When the investigation is completed, he should seek direction from the Area Commander or the General Officer Commanding the Command as to whether or not disciplinary action is indicated. In practically every cases, suspects should be examined by a psychiatrist.

*Adm 2
HQC 3040-5
McIntyre's return
asmt 15 Jul.
MMS
2 Jul*

W E Scott
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