


s.19(1)

DEPARTMENT OF NATIONAL DEFENCE MINISTÈRE DE LA DÉFENSE NATIONALE		5705-1
MINUTE SHEET - NOTE DE SERVICE		SECURITY CLASSIFICATION - COTE DE SÉCURITÉ CONFIDENTIAL
SUBJECT - SUJET		FILE NO. - NO DE DOSSIER
RECOMMENDATION FOR RELEASE		TD - D.T.
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)	
DPCAO(4)	<p>1. You have asked for my opinion as to whether the immediate termination of [redacted]'s Class "C" service should necessarily terminate his entitlement to the 'medical care' he is now receiving concerning homosexual propensity.</p> <p>2. I recommend that [redacted]'s Class "C" service not be immediately terminated, as proposed, although my reasons for this recommendation are not based upon whether or not [redacted] would be entitled to continuing medical care.</p> <p>3. [redacted]'s Class "C" service may be terminated without notice "either for misconduct or if he is incapable of performing the duties for which he was employed". It is premature to characterize what he is alleged to have done as "misconduct". Indeed, at this stage indications are that his release will most likely be under Item 5(d) for homosexuality, a release that cannot fairly be regarded as based on misconduct as by definition an Item 5(d) release is based on factors beyond the member's control. I also consider that it is premature to specify [redacted]'s release item - it may turn out that upon receipt of the medical opinion, and following a review of the SIU reports by DPLS (which I recommend be done) administrative authorities will determine that [redacted] is not a homosexual but should be released under Item 5(f), based upon his past conduct with subordinates. Once a release item, whether 5(d) or 5(f), is assigned I consider that [redacted] may be released without regard to the termination provisions of CFAO 9-54; these provisions</p>	
DND 317 (JUN 74) 7530-21-870-6223		.../2

006011

AGC-1644_0001

s.19(1)

DEPARTMENT OF NATIONAL DEFENCE MINISTÈRE DE LA DÉFENSE NATIONALE		SECURITY CLASSIFICATION — COTE DE SÉCURITÉ
MINUTE SHEET — NOTE DE SERVICE		FILE NO. — NO DE DOSSIER
SUBJECT — SUJET		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)	
	<p>must be read to release provisions. In other words, if for example it is decided to release [redacted] under Item 5(d) with less than 30 days notice, his Class "C" service would be terminated as a consequence of his release, rather than as a consequence of CFAO 9-54.</p> <p>4. The question posed at the outset becomes relevant only if [redacted] is considered to be "incapable" of carrying out his duties on the ground that cannot function without a security clearance (if it has been downgraded or revoked). In such even his Class "C" service could be terminated forthwith. Whether or not he would continue to receive medical care would, however, depend upon whether or not his need for medical care is "a result of his misconduct or imprudence". If the requirement for medical care results from misconduct he is not entitled to medical care. Otherwise, he is entitled to medical care after termination of the period of his duty at public expense as the attending physician may consider necessary, and as authorized by the appropriate officer commanding a command. (QR&O Arts 2407(6)(b) and (7)(a)). The resolution of the issue of whether or not [redacted]'s conduct amounted to misconduct depends to a large extent on the medical opinion to be given as a result of the current "medical care". "Catch 22".</p> <p style="text-align: right;"> D.J. Boan Maj DPLS 3-2 5-3445</p> <p style="text-align: center;">14 Feb 83</p>	
DND 317 (JUN 74) 7530-21-870-6223		

006012

AGC-1644_0002