

FOURTH DRAFT

30 SEP 85

CFAO 19-20

SEXUAL ABNORMALITY AND HOMOSEXUALITY

**Policy**

1. Canadian Forces policy is that personnel who commit sexually abnormal or homosexual acts will not be enrolled or retained in the service.

**Definitions**

2. For the purposes of this order:
- a. "Homosexual Act" - A homosexual act is an intentional or willing act of stimulation or response of a sexual nature with a partner of the same sex, including but not limited to fondling or caressing, kissing, masturbation, fellatio and cunnilingus.
  - b. "Sexually Abnormal Act" - A sexually abnormal act is one which does not conform with accepted moral standards in Canadian society, or constitutes an offence of a sexual nature under the Criminal Code of Canada. Such acts include voyeurism, exhibitionism, buggery, bestiality, incest, sexual assault, and gross indecency.

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## Investigation

3. If a Commanding Officer has reason to believe that a member of the Canadian Forces has committed a sexually abnormal or homosexual act, he shall investigate and determine the facts of the matter.

4. Preliminary investigation may be conducted in any manner deemed appropriate by the CO, using resources at his disposal, provided such investigation is carefully managed to ensure maximum confidentiality and to protect the privacy of personnel involved. Women personnel shall not be questioned on matters of sexual activity other than in the presence of a woman officer, preferably a nursing sister; a military police woman, or a woman NCO.

5. When preliminary investigation tends to confirm that sexually abnormal or homosexual acts have been committed, the CO shall request that the nearest Special Investigation Unit complete the investigation, and prepare a report.

## Disposal

6. When an investigation into sexually abnormal or homosexual acts fails to substantiate, with reasonable certainty, that the member was involved in such acts, unit personnel records of such investigation shall be destroyed.

7. When an investigation indicates, with reasonable certainty, that a member has committed sexually abnormal or homosexual acts, the

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CO shall forward a copy of his report to NDHQ/DGPCO or DGPCOR as appropriate, through normal channels, with his recommendation, and shall consider initiating a Change of Circumstances report in accordance with A-SJ-100-001/AS-000. Command Headquarters may append comments and/or recommendation as deemed appropriate.

### **Discipline**

8. Normally, disciplinary action should not be taken. However, the CO shall consider such action when:

- a. the member's conduct is clearly prejudicial to good order and discipline; for example, if a superior officer or NCO used rank or supervisory position to gain or coerce sexual cooperation;
- b. an offence under the Criminal Code of Canada has been committed; or
- c. the conduct in question has brought discredit to the CF.

### **Career Action**

9. Members who commit sexually abnormal or homosexual acts will normally be released under QR&O 15.01 Item 5(d) on authorization by DGPCO or DGPCOR. However, in cases of sexual abnormal or homosexual acts of a serious nature, release under QR&O 15.01 Item 2(a) - "Unsatisfactory Conduct" - shall be considered.

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10. In reported cases involving sexually abnormal or homosexual acts, where the CO deems that the circumstances are such that this policy does not apply or that release is not warranted, he may recommend retention through normal channels of communication to NDHQ/DGPCO or NDHQ/DGPCOR. Where retention is approved, records of the investigation and recommendations shall not be retained in unit personnel records. Records will be retained on NDHQ personnel files for five years but will not be made available to career boards.

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